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# SUPPLEMENT

TO THE

## American Journal of International Law

VOLUME 4

1910

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OFFICIAL DOCUMENTS

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PUBLISHED FOR  
THE AMERICAN SOCIETY OF INTERNATIONAL LAW  
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BAKER, VOORHIS & COMPANY  
NEW YORK, U. S. A.

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## OFFICIAL DOCUMENTS

### THE SOUTH AFRICA ACT, 1909.

[9 Edw. 7. Ch. 9.]

Whereas it is desirable for the welfare and future progress of South Africa that the several British colonies therein should be united under one government in a legislative union under the crown of Great Britain and Ireland:

And whereas it is expedient to make provision for the union of the Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony on terms and conditions to which they have agreed by resolution of their respective Parliaments, and to define the executive, legislative, and judicial powers to be exercised in the government of the Union:

And whereas it is expedient to make provision for the establishment of provinces with powers of legislation and administration in local matters and in such other matters as may be specially reserved for provincial legislation and administration:

And whereas it is expedient to provide for the eventual admission into the Union or transfer to the Union of such parts of South Africa as are not originally included therein:

Be it therefore enacted by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

#### I. PRELIMINARY.

1. This act may be cited as the South Africa Act, 1909.
2. In this act, unless it is otherwise expressed or implied, the words "the Union" shall be taken to mean the Union of South Africa as constituted under this act, and the words "Houses of Parliament," "House of Parliament," or "Parliament," shall be taken to mean the Parliament of the Union.
3. The provisions of this act referring to the king shall extend to his majesty's heirs and successors in the sovereignty of the United Kingdom of Great Britain and Ireland.

## II. THE UNION.

4. It shall be lawful for the king, with the advice of the privy council, to declare by proclamation that, on and after a day therein appointed, not being later than one year after the passing of this act, the colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony, hereinafter called the colonies, shall be united in a legislative union under one government under the name of the Union of South Africa. On and after the day appointed by such proclamation the government and parliament of the Union shall have full power and authority within the limits of the colonies, but the king may at any time after the proclamation appoint a governor-general for the Union.

5. The provisions of this act shall, unless it is otherwise expressed or implied, take effect on and after the day so appointed.

6. The colonies mentioned in section four shall become original provinces of the Union under the names of Cape of Good Hope, Natal, Transvaal, and Orange Free State, as the case may be. The original provinces shall have the same limits as the respective colonies at the establishment of the Union.

7. Upon any colony entering the Union, the Colonial Boundaries Act, 1895, and every other act applying to any of the colonies as being self-governing colonies or colonies with responsible government, shall cease to apply to that colony, but as from the date when this act takes effect every such act of parliament shall apply to the Union.

## III. EXECUTIVE GOVERNMENT.

8. The executive government of the Union is vested in the king, and shall be administered by his majesty in person or by a governor-general as his representative.

9. The governor-general shall be appointed by the king, and shall have and may exercise in the Union during the king's pleasure, but subject to this act, such powers and functions of the king as his majesty may be pleased to assign to him.

10. There shall be payable to the king out of the consolidated revenue fund of the Union for the salary of the governor-general an annual sum of ten thousand pounds. The salary of the governor-general shall not be altered during his continuance in office.

11. The provisions of this act relating to the governor-general extend and apply to the governor-general for the time being or such person as

the king may appoint to administer the government of the Union. The king may authorize the governor-general to appoint any person to be his deputy within the Union during his temporary absence, and in that capacity to exercise for and on behalf of the governor-general during such absence all such powers and authorities vested in the governor-general as the governor-general may assign to him, subject to any limitations expressed or directions given by the king, but the appointment of such deputy shall not affect the exercise by the governor-general himself of any power or function.

12. There shall be an executive council to advise the governor-general in the government of the Union and the members of the council shall be chosen and summoned by the governor-general and sworn as executive councillors, and shall hold office during his pleasure.

13. The provisions of this act referring to the governor-general in council shall be construed as referring to the governor-general acting with the advice of the executive council.

14. The governor-general may appoint officers not exceeding ten in number to administer such departments of state of the Union as the governor-general in council may establish; such officers shall hold office during the pleasure of the governor-general. They shall be members of the executive council and shall be the king's ministers of state for the Union. After the first general election of members of the house of assembly, as hereinafter provided, no minister shall hold office for a longer period than three months unless he is or becomes a member of either house of parliament.

15. The appointment and removal of all officers of the public service of the Union shall be vested in the governor-general in council, unless the appointment is delegated by the governor-general in council or by this act or by a law of parliament to some other authority.

16. All powers, authorities, and functions which at the establishment of the Union are in any of the colonies vested in the governor or in the governor in council, or in any authority of the colony, shall as far as the same continue in existence and are capable of being exercised after the establishment of the Union, be vested in the governor-general or in the governor-general in council, or in the authority exercising similar powers under the Union, as the case may be, except such powers and functions as are by this act or may by a law of parliament be vested in some other authority.

17. The command in chief of the naval and military forces within



the Union is vested in the king or in the governor-general as his representative.

18. Save as in section twenty-three excepted, Pretoria shall be the seat of government of the Union.

#### IV. PARLIAMENT.

19. The legislative power of the Union shall be vested in the parliament of the Union, herein called parliament, which shall consist of the king, a senate, and a house of assembly.

20. The governor-general may appoint such times for holding the sessions of parliament as he thinks fit, and may also from time to time, by proclamation or otherwise, prorogue parliament, and may in like manner dissolve the senate and the house of assembly simultaneously, or the house of assembly alone: provided that the senate shall not be dissolved within a period of ten years after the establishment of the Union, and provided further that the dissolution of the senate shall not affect any senators nominated by the governor-general in council.

21. Parliament shall be summoned to meet not later than six months after the establishment of the Union.

22. There shall be a session of parliament once at least in every year, so that a period of twelve months shall not intervene between the last sitting of parliament in one session and its first sitting in the next session.

23. Cape Town shall be the seat of the legislature of the Union.

#### *Senate.*

24. For ten years after the establishment of the Union the constitution of the senate shall, in respect of the original provinces, be as follows:—

(i) Eight senators shall be nominated by the governor-general in council, and for each original province eight senators shall be elected in the manner hereinafter provided:

(ii) The senators to be nominated by the governor-general in council shall hold their seats for ten years. One-half of their number shall be selected on the ground mainly of their thorough acquaintance, by reason of their official experience or otherwise, with the reasonable wants and wishes of the colored races in South Africa. If the seat of a senator so nominated shall become vacant, the governor-general in council shall nominate another person to be a senator, who shall hold his seat for ten years.

(iii) After the passing of this act, and before the day appointed for the establishment of the Union, the governor of each of the colonies shall summon a special sitting of both houses of the legislature, and the two houses sitting together as one body and presided over by the speaker of the legislative assembly shall elect eight persons to be senators for the province. Such senators shall hold their seats for ten years. If the seat of a senator so elected shall become vacant, the provincial council of the province for which such senator has been elected shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat.

25. Parliament may provide for the manner in which the senate shall be constituted after the expiration of ten years, and unless and until such provision shall have been made —

(i) the provisions of the last preceding section with regard to nominated senators shall continue to have effect;

(ii) eight senators for each province shall be elected by the members of the provincial council of such province together with the members of the house of assembly elected for such province. Such senators shall hold their seats for ten years unless the senate be sooner dissolved. If the seat of an elected senator shall become vacant, the members of the provincial council of the province, together with the members of the house of assembly elected for such province, shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat. The governor-general in council shall make regulations for the joint election of senators prescribed in this section.

26. The qualifications of a senator shall be as follows:—  
He must —

- (a) be not less than thirty years of age;
- (b) be qualified to be registered as a voter for the election of members of the house of assembly in one of the provinces;
- (c) have resided for five years within the limits of the Union as existing at the time when he is elected or nominated, as the case may be;
- (d) be a British subject of European descent;
- (e) in the case of an elected senator, be the registered owner of immovable property within the Union of the value of not less than five hundred pounds over and above any special mortgages thereon.

For the purposes of this section, residence in, and property situated within, a colony before its incorporation in the Union shall be treated as residence in and property situated within the Union.

27. The senate shall, before proceeding to the dispatch of any other business, choose a senator to be the president of the senate, and as often as the office of president becomes vacant the senate shall again choose a senator to be the president. The president shall cease to hold office if he ceases to be a senator. He may be removed from office by a vote of the senate, or he may resign his office by writing under his hand addressed to the governor-general.

28. Prior to or during any absence of the president the senate may choose a senator to perform his duties in his absence.

29. A senator may, by writing under his hand addressed to the governor-general, resign his seat, which thereupon shall become vacant. The governor-general shall as soon as practicable cause steps to be taken to have the vacancy filled.

30. The presence of at least twelve senators shall be necessary to constitute a meeting of the senate for the exercise of its powers.

31. All questions in the senate shall be determined by a majority of votes of senators present other than the president or the presiding senator, who shall, however, have and exercise a casting vote in the case of an equality of votes.

#### *House of assembly.*

32. The house of assembly shall be composed of members directly chosen by the voters of the Union in electoral divisions delimited as hereinafter provided.

33. The number of members to be elected in the original provinces at the first election and until the number is altered in accordance with the provisions of this act shall be as follows:

Cape of Good Hope.....	fifty-one.
Natal .....	seventeen.
Transvaal .....	thirty-six.
Orange Free State.....	seventeen.

These numbers may be increased as provided in the next succeeding section, but shall not, in the case of any original province, be diminished until the total number of members of the house of assembly in respect of the provinces herein provided for reaches one hundred and fifty, or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period.

34. The number of members to be elected in each province, as provided in section thirty-three, shall be increased from time to time as may be necessary in accordance with the following provisions:

(i) The quota of the Union shall be obtained by dividing the total number of European male adults in the Union, as ascertained at the census of 1904, by the total number of members of the house of assembly as constituted at the establishment of the Union:

(ii) In nineteen hundred and eleven, and every five years thereafter, a census of the European population of the Union shall be taken for the purposes of this act:

(iii) After any such census the number of European male adults in each province shall be compared with the number of European male adults as ascertained at the census of 1904, and, in the case of any province where an increase is shown, as compared with the census of 1904, equal to the quota of the Union or any multiple thereof, the number of members allotted to such province in the last preceding section shall be increased by an additional member or an additional number of members equal to such multiple, as the case may be:

(iv) Notwithstanding anything herein contained, no additional member shall be allotted to any province until the total number of European male adults in such province exceeds the quota of the Union multiplied by the number of members allotted to such province for the time being, and thereupon additional members shall be allotted to such province in respect only of such excess:

(v) As soon as the number of members of the house of assembly to be elected in the original provinces in accordance with the preceding sub-sections reaches the total of one hundred and fifty, such total shall not be further increased unless and until parliament otherwise provides; and subject to the provisions of the last preceding section the distribution of members among the provinces shall be such that the proportion between the number of members to be elected at any time in each province and the number of European male adults in such province, as ascertained at the last preceding census, shall as far as possible be identical throughout the union:

(vi) "Male adults" in this act shall be taken to mean males of twenty-one years of age or upwards not being members of his majesty's regular forces on full pay:

(vii) For the purposes of this act the number of European male adults, as ascertained at the census of 1904, shall be taken to be

for the Cape of Good Hope.....	167,546
for Natal .....	34,784
for the Transvaal.....	106,493
for the Orange Free State.....	41,014

35. (1) Parliament may by law prescribe the qualifications which shall be necessary to entitle persons to vote at the election of members of the house of assembly, but no such law shall disqualify any person in the province of the Cape of Good Hope who, under the laws existing in the colony of the Cape of Good Hope at the establishment of the Union, is or may become capable of being registered as a voter from being so registered in the province of the Cape of Good Hope by reason of his race or color only, unless the bill be passed by both houses of parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both houses. A bill so passed at such joint sitting shall be taken to have been duly passed by both houses of parliament.

(2) No person who at the passing of any such law is registered as a voter in any province shall be removed from the register by reason only of any disqualification based on race or color.

36. Subject to the provisions of the last preceding section, the qualifications of parliamentary voters, as existing in the several colonies at the establishment of the Union, shall be the qualifications necessary to entitle persons in the corresponding provinces to vote for the election of members of the house of assembly: provided that no member of his majesty's regular forces on full pay shall be entitled to be registered as a voter.

37. (1) Subject to the provisions of this act, the laws in force in the colonies at the establishment of the Union relating to elections for the more numerous houses of parliament in such colonies respectively, the registration of voters, the oaths or declarations to be taken by voters, returning officers, the powers and duties of such officers, the proceedings in connection with elections, election expenses, corrupt and illegal practices, the hearing of election petitions and the proceedings incident thereto, the vacating of seats of members, and the proceedings necessary for filling such vacancies, shall, *mutatis mutandis*, apply to the elections in the respective provinces of members of the house of assembly.

(2) Notwithstanding anything to the contrary in any of the said laws contained, at any general election of members of the house of assembly, all polls shall be taken on one and the same day in all the electoral divisions throughout the Union, such day to be appointed by the governor-general in council.



38. Between the date of the passing of this act and the date fixed for the establishment of the Union, the governor in council of each of the colonies shall nominate a judge of any of the supreme or high courts of the colonies, and the judges so nominated shall, upon acceptance by them respectively of such nomination, form a joint commission, without any further appointment, for the purpose of the first division of the provinces into electoral divisions. The high commissioner for South Africa shall forthwith convene a meeting of such commission at such time and place in one of the colonies as he shall fix and determine. At such meeting the commissioners shall elect one of their number as chairman of such commission. They shall thereupon proceed with the discharge of their duties under this act, and may appoint persons in any province to assist them or to act as assessors to the commission or with individual members thereof for the purpose of inquiring into matters connected with the duties of the commission. The commission may regulate their own procedure and may act by a majority of their number. All moneys required for the payment of the expenses of such commission before the establishment of the Union in any of the colonies shall be provided by the governor in council of such colony. In case of the death, resignation, or other disability of any of the commissioners before the establishment of the Union, the governor in council of the colony in respect of which he was nominated shall forthwith nominate another judge to fill the vacancy. After the establishment of the Union the expenses of the commission shall be defrayed by the governor-general in council, and any vacancies shall be filled by him.

39. The commission shall divide each province into electoral divisions, each returning one member.

40. (1) For the purpose of such division as is in the last preceding section mentioned, the quota of each province shall be obtained by dividing the total number of voters in the province, as ascertained at the last registration of voters, by the number of members of the house of assembly to be elected therein.

(2) Each province shall be divided into electoral divisions in such a manner that each such division shall, subject to the provisions of subsection (3) of this section, contain a number of voters, as nearly as may be, equal to the quota of the province.

(3) The commissioners shall give due consideration to

- (a) community or diversity of interests;
- (b) means of communication;
- (c) physical features;

- (d) existing electoral boundaries;
- (e) sparsity or density of population;

in such manner that, while taking the quota of voters as the basis of division, the commissioners may, whenever they deem it necessary, depart therefrom, but in no case to any greater extent than fifteen per centum more or fifteen per centum less than the quota.

41. As soon as may be after every quinquennial census, the governor-general in council shall appoint a commission consisting of three judges of the supreme court of South Africa to carry out any redivision which may have become necessary as between the different electoral divisions in each province, and to provide for the allocation of the number of members to which such province may have become entitled under the provisions of this act. In carrying out such redivision and allocation the commission shall have the same powers and proceed upon the same principles as are by this act provided in regard to the original division.

42. (1) The joint commission constituted under section thirty-eight and any subsequent commission appointed under the provisions of the last preceding section, shall submit to the governor-general in council:

- (a) a list of electoral divisions, with the names given to them by the commission and a description of the boundaries of every such division:
- (b) a map or maps showing the electoral divisions into which the provinces have been divided:
- (c) such further particulars as they consider necessary.

(2) The governor-general in council may refer to the commission for its consideration any matter relating to such list or arising out of the powers or duties of the commission.

(3) The governor-general in council shall proclaim the names and boundaries of the electoral divisions as finally settled and certified by the commission, or a majority thereof, and thereafter, until there shall be a redivision, the electoral divisions as named and defined shall be the electoral divisions of the Union in the provinces.

(4) If any discrepancy shall arise between the description of the divisions and the aforesaid map or maps, the description shall prevail.

43. Any alteration in the number of members of the house of assembly to be elected in the several provinces, and any redivision of the provinces into electoral divisions, shall, in respect of the election of members of the house of assembly, come into operation at the next general election held after the completion of the redivision or of any allocation consequent upon such alteration, and not earlier.

44. The qualifications of a member of the house of assembly shall be as follows:

He must —

- (a) be qualified to be registered as a voter for the election of members of the house of assembly in one of the provinces;
- (b) have resided for five years within the limits of the Union as existing at the time when he is elected;
- (c) be a British subject of European descent.

For the purposes of this section, residence in a colony before its incorporation in the Union shall be treated as residence in the Union.

45. Every house of assembly shall continue for five years from the first meeting thereof, and no longer, but may be sooner dissolved by the governor-general.

46. The house of assembly shall, before proceeding to the despatch of any other business, choose a member to be the speaker of the house, and, as often as the office of speaker becomes vacant, the house shall again choose a member to be the speaker. The speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the house, or he may resign his office or his seat by writing under his hand addressed to the governor-general.

47. Prior to or during the absence of the speaker, the house of assembly may choose a member to perform his duties in his absence.

48. A member may, by writing under his hand addressed to the speaker, or, if there is no speaker, or if the speaker is absent from the Union, to the governor-general, resign his seat, which shall thereupon become vacant.

49. The presence of at least thirty members of the house of assembly shall be necessary to constitute a meeting of the house for the exercise of its powers.

50. All questions in the house of assembly shall be determined by a majority of votes of members present other than the speaker or the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

*Both houses of parliament.*

51. Every senator and every member of the house of assembly shall, before taking his seat, make and subscribe before the governor-general, or some person authorized by him, an oath or affirmation of allegiance in the following form:

*Oath.*

I, A. B., do swear that I will be faithful and bear true allegiance to His Majesty [here insert the name of the king or queen of the United Kingdom of Great Britain and Ireland for the time being] his [or her] heirs and successors according to law. So help me God.

*Affirmation.*

I, A. B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to His Majesty [here insert the name of the king or queen of the United Kingdom of Great Britain and Ireland for the time being] his [or her] heirs and successors according to law.

52. A member of either house of parliament shall be incapable of being chosen or of sitting as a member of the other house: provided that every minister of state who is a member of either house of parliament shall have the right to sit and speak in the senate and the house of assembly, but shall vote only in the house of which he is a member.

53. No person shall be capable of being chosen or of sitting as a senator or as a member of the house of assembly who:

(a) has been at any time convicted of any crime or offense for which he shall have been sentenced to imprisonment without the option of a fine for a term of not less than twelve months, unless he shall have received a grant of amnesty or a free pardon, or unless such imprisonment shall have expired at least five years before the date of his election; or

(b) is an unrehabilitated insolvent; or

(c) is of unsound mind, and has been so declared by a competent court; or

(d) holds any office of profit under the crown within the Union: provided that the following persons shall not be deemed to hold an office of profit under the crown for the purposes of this sub-section:

(1) a minister of state for the Union;

(2) a person in receipt of a pension from the crown;

(3) an officer or member of his majesty's naval or military forces on retired or half pay, or an officer or member of the naval or military forces of the Union whose services are not wholly employed by the Union.

54. If a senator or member of the houses of assembly —

(a) becomes subject to any of the disabilities mentioned in the last preceding section; or

(b) ceases to be qualified as required by law; or

(c) fails for a whole ordinary session to attend without the special leave of the senate or the house of assembly, as the case may be;

his seat shall thereupon become vacant.

55. If any person who is by law incapable of sitting as a senator or member of the house of assembly shall, while so disqualified and knowing or having reasonable grounds for knowing that he is so disqualified, sit or vote as a member of the senate or the house of assembly, he shall be liable to a penalty of one hundred pounds for each day on which he shall so sit or vote, to be recovered on behalf of the treasury of the Union by action in any superior court of the Union.

56. Each senator and each member of the house of assembly shall, under such rules as shall be framed by parliament, receive an allowance of four hundred pounds a year, to be reckoned from the date on which he takes his seat: provided that for every day of the session on which he is absent there shall be deducted from such allowance the sum of three pounds: provided further that no such allowance shall be paid to a minister receiving a salary under the crown or to the president of the senate or the speaker of the house of assembly. A day of the session shall mean in respect of a member any day during a session on which the house of which he is a member or any committee of which he is a member meets.

57. The powers, privileges, and immunities of the senate and of the house of assembly and of the members and committees of each house shall, subject to the provisions of this act, be such as are declared by parliament, and until declared shall be those of the house of assembly of the Cape of Good Hope and of its members and committees at the establishment of the Union.

58. Each house of parliament may make rules and orders with respect to the order and conduct of its business and proceedings. Until such rules and orders shall have been made the rules and orders of the legislative council and house of assembly of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply to the senate and house of assembly respectively. If a joint sitting of both houses of parliament is required under the provisions of this act, it shall be convened by the governor-general by message to both houses. At any such



joint sitting the speaker of the house of assembly shall preside and the rules of the house of assembly shall, as far as practicable, apply.

*Powers of parliament.*

59. Parliament shall have full power to make laws for the peace, order, and good government of the Union.

60. (1) Bills appropriating revenue or moneys or imposing taxation shall originate only in the house of assembly. But a bill shall not be taken to appropriate revenue or moneys or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties.

(2) The senate may not amend any bills so far as they impose taxation or appropriate revenue or moneys for the services of the government.

(3) The senate may not amend any bill so as to increase any proposed charges or burden on the people.

61. Any bill which appropriates revenue or moneys for the ordinary annual services of the government shall deal only with such appropriation.

62. The house of assembly shall not originate or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue or of any tax or impost to any purpose unless such appropriation has been recommended by message from the governor-general during the session in which such vote, resolution, address, or bill is proposed.

63. If the house of assembly passes any bill and the senate rejects or fails to pass it or passes it with amendments to which the house of assembly will not agree, and if the house of assembly in the next session again passes the bill with or without any amendments which have been made or agreed to by the senate and the senate rejects or fails to pass it or passes it with amendments to which the house of assembly will not agree, the governor-general may during that session convene a joint sitting of the members of the senate and house of assembly. The members present at any such joint sitting may deliberate and shall vote together upon the bill as last proposed by the house of assembly and upon amendments, if any, which have been made therein by one house of parliament and not agreed to by the other; and any such amendments which are affirmed by a majority of the total number of members of the senate and house of assembly present at such sitting shall be taken to have been carried, and if the bill with the amendments, if any, is affirmed by a majority of the members of the senate and house of assembly present

at such sitting, it shall be taken to have been duly passed by both houses of parliament: provided that, if the senate shall reject or fail to pass any bill dealing with the appropriation of revenue or moneys for the public service, such joint sitting may be convened during the same session in which the senate so rejects or fails to pass such bill.

64. When a bill is presented to the governor-general for the king's assent, he shall declare according to his discretion, but subject to the provisions of this act, and to such instructions as may from time to time be given in that behalf by the king, that he assents in the king's name, or that he withholds assent, or that he reserves the bill for the signification of the king's pleasure. All bills repealing or amending this section or any of the provisions of chapter IV., under the heading "house of assembly," and all bills abolishing provincial councils or abridging the powers conferred on provincial councils under section eighty-five, otherwise than in accordance with the provisions of that section, shall be so reserved. The governor-general may return to the house in which it originated any bill so presented to him, and may transmit therewith any amendments which he may recommend, and the house may deal with the recommendation.

65. The king may disallow any law within one year after it has been assented to by the governor-general, and such disallowance, on being made known by the governor-general by speech or message to each of the houses of parliament or by proclamation shall annul the law from the day when the disallowance is so made known.

66. A bill reserved for the king's pleasure shall not have any force unless and until, within one year from the day on which it was presented to the governor-general for the king's assent, the governor-general makes known by speech or message to each of the houses of parliament or by proclamation that it has received the king's assent.

67. As soon as may be after any law shall have been assented to in the king's name by the governor-general, or having been reserved for the king's pleasure shall have received his assent, the clerk of the house of assembly shall cause two fair copies of such law, one being in the English and the other in the Dutch language (one of which copies shall be signed by the governor-general), to be enrolled of record in the office of the registrar of the appellate division of the supreme court of South Africa; and such copies shall be conclusive evidence as to the provisions of every such law, and in case of conflict between the two copies thus deposited that signed by the governor-general shall prevail.

## V. THE PROVINCES.

*Administrators.*

68. (1) In each province there shall be a chief executive officer appointed by the governor-general in council, who shall be styled the administrator of the province, and in whose name all executive acts relating to provincial affairs therein shall be done.

(2) In the appointment of the administrator of any province, the governor-general in council shall, as far as practicable, give preference to persons resident in such province.

(3) Such administrator shall hold office for a term of five years and shall not be removed before the expiration thereof except by the governor-general in council for cause assigned, which shall be communicated by message to both houses of parliament within one week after the removal, if parliament be then sitting, or, if parliament be not sitting, then within one week after the commencement of the next ensuing session.

(4) The governor-general in council may from time to time appoint a deputy administrator to execute the office and functions of the administrator during his absence, illness, or other inability.

69. The salaries of the administrators shall be fixed and provided by parliament, and shall not be reduced during their respective terms of office.

*Provincial councils.*

70. (1) There shall be a provincial council in each province consisting of the same number of members as are elected in the province for the house of assembly: provided that, in any province whose representatives in the house of assembly shall be less than twenty-five in number, the provincial council shall consist of twenty-five members.

(2) Any person qualified to vote for the election of members of the provincial council shall be qualified to be a member of such council.

71. (1) The members of the provincial council shall be elected by the persons qualified to vote for the election of members of the house of assembly in the province voting in the same electoral divisions as are delimited for the election of members of the house of assembly: provided that, in any province in which less than twenty-five members are elected to the house of assembly, the delimitation of the electoral divisions, and any necessary re-allocation of members or adjustment of electoral divisions, shall be effected by the same commission and on the same principles as are prescribed in regard to the electoral divisions for the house of assembly.

(2) Any alteration in the number of members of the provincial council and any re-division of the province into electoral divisions, shall come into operation at the next general election for such council held after the completion of such re-division, or of any allocation consequent upon such alteration, and not earlier.

(3) The elections shall take place at such times as the administrator shall by proclamation direct, and the provisions of section thirty-seven applicable to the election of members of the house of assembly shall *mutatis mutandis* apply to such elections.

72. The provisions of sections fifty-three, fifty-four and fifty-five, relative to members of the house of assembly, shall *mutatis mutandis* apply to members of the provincial councils: provided that any member of a provincial council who shall become a member of either house of parliament shall thereupon cease to be a member of such provincial council.

73. Each provincial council shall continue for three years from the date of its first meeting, and shall not be subject to dissolution save by effluxion of time.

74. The administrator of each province shall by proclamation fix such times for holding the sessions of the provincial council as he may think fit, and may from time to time prorogue such council: provided that there shall be a session of every provincial council once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the council in one session and its first sitting in the next session.

75. The provincial council shall elect from among its members a chairman, and may make rules for the conduct of its proceedings. Such rules shall be transmitted by the administrator to the governor-general, and shall have full force and effect unless and until the governor-general in council shall express his disapproval thereof in writing addressed to the administrator.

76. The members of the provincial council shall receive such allowances as shall be determined by the governor-general in council.

77. There shall be freedom of speech in the provincial council, and no member shall be liable to any action or proceeding in any court by reason of his speech or vote in such council.

#### *Executive committees.*

78. (1) Each provincial council shall at its first meeting after any general election elect from among its members, or otherwise, four persons to form with the administrator, who shall be chairman, an executive

committee for the province. The members of the executive committee other than the administrator shall hold office until the election of their successors in the same manner.

(2) Such members shall receive such remuneration as the provincial council, with the approval of the governor-general in council, shall determine.

(3) A member of the provincial council shall not be disqualified from sitting as a member by reason of his having been elected as a member of the executive committee.

(4) Any casual vacancy arising in the executive committee shall be filled by election by the provincial council if then in session, or, if the council is not in session, by a person appointed by the executive committee to hold office temporarily pending an election by the council.

79. The administrator and any other member of the executive committee of a province, not being a member of the provincial council, shall have the right to take part in the proceedings of the council, but shall not have the right to vote.

80. The executive committee shall on behalf of the provincial council carry on the administration of provincial affairs. Until the first election of members to serve on the executive committee, such administration shall be carried on by the administrator. Whenever there are not sufficient members of the executive committee to form a quorum according to the rule of the committee, the administrator shall, as soon as practicable, convene a meeting of the provincial council for the purpose of electing members to fill the vacancies, and until such election the administrator shall carry on the administration of provincial affairs.

81. Subject to the provisions of this act, all powers, authorities, and functions which at the establishment of the Union are in any of the colonies vested in or exercised by the governor or the governor in council, or any minister of the colony, shall after such establishment be vested in the executive committee of the province so far as such powers, authorities, and functions relate to matters in respect of which the provincial council is competent to make ordinances.

82. Questions arising in the executive committee shall be determined by a majority of votes of the members present, and, in case of an equality of votes, the administrator shall have also a casting vote. Subject to the approval of the governor-general in council, the executive committee may make rules for the conduct of its proceedings.

83. Subject to the provisions of any law passed by parliament regulat-

ing the conditions of appointment, tenure of office, retirement and superannuation of public officers, the executive committee shall have power to appoint such officers as may be necessary in addition to officers assigned to the province by the governor-general in council under the provisions of this act, to carry out the services entrusted to them and to make and enforce regulations for the organization and discipline of such officers.

84. In regard to all matters in respect of which no powers are reserved or delegated to the provincial council, the administrator shall act on behalf of the governor-general in council when required to do so and in such matters the administrator may act without reference to the other members of the executive committee.

*Powers of provincial councils.*

85. Subject to the provisions of this act and the assent of the governor-general in council as hereinafter provided, the provincial council may make ordinances in relation to matters coming within the following classes of subjects (that is to say) :

(i) Direct taxation within the province in order to raise a revenue for provincial purposes :

(ii) The borrowing of money on the sole credit of the province with the consent of the governor-general in council and in accordance with regulations to be framed by parliament :

(iii) Education, other than higher education, for a period of five years and thereafter until parliament otherwise provides :

(iv) Agriculture to the extent and subject to the conditions to be defined by parliament :

(v) The establishment, maintenance and management of hospitals and charitable institutions :

(vi) Municipal institutions, divisional councils, and other local institutions of a similar nature :

(vii) Local works and undertakings within the province, other than railways and harbors and other than such works as extend beyond the borders of the province, and subject to the power of parliament to declare any work a national work and to provide for its construction by arrangement with the provincial council or otherwise :

(viii) Roads, outspans, ponts, and bridges, other than bridges connecting two provinces :

(ix) Markets and pounds :

(x) Fish and game preservation :

(xi) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law or any ordinance of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section :

(xii) Generally all matters which, in the opinion of the governor-general in council, are of a merely local or private nature in the province :

(xiii) All other subjects in respect of which parliament shall by any law delegate the power of making ordinances to the provincial council.

86. Any ordinance made by a provincial council shall have effect in and for the province so long and as far only as it is not repugnant to any act of parliament.

87. A provincial council may recommend to parliament the passing of any law relating to any matter in respect of which such council is not competent to make ordinances.

88. In regard to any matter which requires to be dealt with by means of a private act of parliament, the provincial council of the province to which the matter relates may, subject to such procedure as shall be laid down by parliament, take evidence by means of a select committee or otherwise for and against the passing of such law, and, upon receipt of a report from such council, together with the evidence upon which it is founded, parliament may pass such act without further evidence being taken in support thereof.

89. A provincial revenue fund shall be formed in every province, into which shall be paid all revenues raised by or accruing to the provincial council and all moneys paid over by the governor-general in council to the provincial council. Such fund shall be appropriated by the provincial council by ordinance for the purposes of the provincial administration generally, or, in the case of moneys paid over by the governor-general in council for particular purposes, then for such purposes, but no such ordinance shall be passed by the provincial council unless the administrator shall have first recommended to the council to make provision for the specific service for which the appropriation is to be made. No money shall be issued from the provincial revenue fund except in accordance with such appropriation and under warrant signed by the administrator: provided that, until the expiration of one month after the first meeting of the provincial council, the administrator may expend such moneys as may be necessary for the services of the province.

90. When a proposed ordinance has been passed by a provincial council it shall be presented by the administrator to the governor-general in council for his assent. The governor-general in council shall declare within one month from the presentation to him of the proposed ordinance that he assents thereto, or that he withholds assent, or that he reserves the proposed ordinance for further consideration. A proposed ordinance so reserved shall not have any force unless and until, within one year from the day on which it was presented to the governor-general in council, he makes known by proclamation that it has received his assent.

91. An ordinance assented to by the governor-general in council and promulgated by the administrator shall, subject to the provisions of this act, have the force of law within the province. The administrator shall cause two fair copies of every such ordinance, one being in the English and the other in the Dutch language (one of which copies shall be signed by the governor-general), to be enrolled of record in the office of the registrar of the appellate division of the supreme court of South Africa; and such copies shall be conclusive evidence as to the provisions of such ordinance, and, in case of conflict between the two copies thus deposited, that signed by the governor-general shall prevail.

*Miscellaneous.*

92. (1) In each province there shall be an auditor of accounts to be appointed by the governor-general in council.

(2) No such auditor shall be removed from office except by the governor-general in council for cause assigned, which shall be communicated by message to both houses of parliament within one week after the removal, if parliament be then sitting, and, if parliament be not sitting, then within one week after the commencement of the next ensuing session.

(3) Each such auditor shall receive out of the consolidated revenue fund such salary as the governor-general in council, with the approval of parliament, shall determine.

(4) Each such auditor shall examine and audit the accounts of the province to which he is assigned subject to such regulations and orders as may be framed by the governor-general in council and approved by parliament, and no warrant signed by the administrator authorizing the issuing of money shall have effect unless countersigned by such auditor.

93. Notwithstanding anything in this act contained, all powers, authorities, and functions lawfully exercised at the establishment of the



Union by divisional or municipal councils, or any other duly constituted local authority, shall be and remain in force until varied or withdrawn by parliament or by a provincial council having power in that behalf.

94. The seats of provincial government shall be:

For the Cape of Good Hope.....Cape Town.

For Natal .....Pietermaritzburg.

For the Transvaal.....Pretoria.

For the Orange Free State.....Bloemfontein.

## VI. THE SUPREME COURT OF SOUTH AFRICA.

95. There shall be a supreme court of South Africa consisting of a chief justice of South Africa, the ordinary judges of appeal, and the other judges of the several divisions of the supreme court of South Africa in the provinces.

96. There shall be an appellate division of the supreme court of South Africa, consisting of the chief justice of South Africa, two ordinary judges of appeal, and two additional judges of appeal. Such additional judges of appeal shall be assigned by the governor-general in council to the appellate division from any of the provincial or local divisions of the supreme court of South Africa, but shall continue to perform their duties as judges of their respective divisions when their attendance is not required in the appellate division.

97. The governor-general in council may, during the absence, illness, or other incapacity of the chief justice of South Africa, or of any ordinary or additional judge of appeal, appoint any other judge of the supreme court of South Africa to act temporarily as such chief justice, ordinary judge of appeal, or additional judge of appeal, as the case may be.

98. (1) The several supreme courts of the Cape of Good Hope, Natal, and the Transvaal, and the high court of the Orange River Colony shall, on the establishment of the Union, become provincial divisions of the supreme court of South Africa within their respective provinces, and shall each be presided over by a judge-president.

(2) The court of the eastern districts of the Cape of Good Hope, the high court of Griqualand, the high court of Witwatersrand, and the several circuit courts, shall become local divisions of the supreme court of South Africa within the respective areas of their jurisdiction as existing at the establishment of the Union.

(3) The said provincial and local divisions, referred to in this act as superior courts, shall, in addition to any original jurisdiction exercised

by the corresponding courts of the colonies at the establishment of the Union, have jurisdiction in all matters —

(a) in which the government of the Union or a person suing or being sued on behalf of such government is a party :

(b) in which the validity of any provincial ordinance shall come into question.

(4) Unless and until parliament shall otherwise provide, the said superior courts shall *mutatis mutandis* have the same jurisdiction in matters affecting the validity of elections of members of the house of assembly and provincial councils as the corresponding courts of the colonies have at the establishment of the Union in regard to parliamentary elections in such colonies respectively.

99. All judges of the supreme courts of the colonies, including the high court of the Orange River Colony, holding office at the establishment of the Union shall on such establishment become judges of the supreme court of South Africa, assigned to the divisions of the supreme court in the respective provinces, and shall retain all such rights in regard to salaries and pensions as they may possess at the establishment of the Union. The chief justices of the colonies holding office at the establishment of the Union shall on such establishment become the judges-president of the divisions of the supreme court in the respective provinces, but shall so long as they hold that office retain the title of chief justice of their respective provinces.

100. The chief justice of South Africa, the ordinary judges of appeal and all other judges of the supreme court of South Africa to be appointed after the establishment of the Union shall be appointed by the governor-general in council, and shall receive such remuneration as parliament shall prescribe, and their remuneration shall not be diminished during their continuance in office.

101. The chief justice of South Africa and other judges of the supreme court of South Africa shall not be removed from office except by the governor-general in council on an address from both houses of parliament in the same session praying for such removal on the ground of misbehavior or incapacity.

102. Upon any vacancy occurring in any division of the supreme court of South Africa, other than the appellate division, the governor-general in council may, in case he shall consider that the number of judges of such court may with advantage to the public interest be reduced, postpone filling the vacancy until parliament shall have determined whether such reduction shall take place.

103. In every civil case in which, according to the law in force at the establishment of the Union, an appeal might have been made to the supreme court of any of the colonies from a superior court in any of the colonies, or from the high court of Southern Rhodesia, the appeal should be made only to the appellate division, except in cases of orders or judgments given by a single judge, upon applications by way of motion or petition or on summons for provisional sentence or judgments as to costs only, which by law are left to the discretion of the court. The appeal from any such orders or judgments, as well as any appeal in criminal cases from any such superior court, or the special reference by any such court of any point of law in a criminal case, shall be made to the provisional division corresponding to the court which before the establishment of the Union would have had jurisdiction in the matter. There shall be no further appeal against any judgment given on appeal by such provincial division except to the appellate division, and then only if the appellate division shall have given special leave to appeal.

104. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from the supreme court of any of the colonies or from the high court of the Orange River Colony to the king in council, the appeal shall be made only to the appellant division: provided that the right of appeal in any civil suit shall not be limited by reason only of the value of the matter in dispute or the amount claimed or awarded in such suit.

105. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from a court of resident magistrate or other inferior court to a superior court in any of the colonies, the appeal shall be made to the corresponding division of the supreme court of South Africa; but there shall be no further appeal against any judgment given on appeal by such division except to the appellate division, and then only if the appellate division shall have given special leave to appeal.

106. There shall be no appeal from the supreme court of South Africa or from any division thereof to the king in council, but nothing herein contained shall be construed to impair any right which the king in council may be pleased to exercise to grant special leave to appeal from the appellate division to the king in council. Parliament may make laws limiting the matters in respect of which such special leave may be asked, but bills containing any such limitation shall be reserved by the governor-

general for the signification of his majesty's pleasure: provided that nothing in this section shall affect any right of appeal to his majesty in council from any judgment given by the appellate division of the supreme court under or in virtue of the Colonial Courts of Admiralty Act, 1890.

107. The chief justice of South Africa and the ordinary judges of appeal may, subject to the approval of the governor-general in council, make rules for the conduct of the proceedings of the appellate division and prescribing the time and manner of making appeals thereto. Until such rules shall have been promulgated, the rules in force in the supreme court of the Cape of Good Hope at the establishment of the Union shall *mutatis mutandis* apply.

108. The chief justice and other judges of the supreme court of South Africa may, subject to the approval of the governor-general in council, frame rules for the conduct of the proceedings of the several provincial and local divisions. Until such rules shall have been promulgated, the rules in force at the establishment of the Union in the respective courts which become divisions of the supreme court of South Africa shall continue to apply therein.

109. The appellate division shall sit in Bloemfontein, but may from time to time for the convenience of suitors hold its sittings at other places within the Union.

110. On the hearing of appeals from a court consisting of two or more judges, five judges of the appellate division shall form a quorum, but, on the hearing of appeals from a single judge, three judges of the appellate division shall form a quorum. No judge shall take part in the hearing of any appeal against the judgment given in a case heard before him.

111. The process of the appellate division shall run throughout the Union, and all its judgments or orders shall have full force and effect in every province, and shall be executed in like manner as if they were original judgments or orders of the provincial division of the supreme court of South Africa in such province.

112. The registrar of every provincial division of the supreme court of South Africa, if thereto requested by any party in whose favor any judgment or order has been given or made by any other division, shall, upon the deposit with him of an authenticated copy of such judgment or order and on proof that the same remains unsatisfied, issue a writ or other process for the execution of such judgment or order, and thereupon such writ or other process shall be executed in like manner as if it had been originally issued from the division of which he is registrar.

113. Any provincial or local division of the supreme court of South Africa to which it may be made to appear that any civil suit pending therein may be more conveniently or fitly heard or determined in another division may order the same to be removed to such other division, and thereupon such last-mentioned division may proceed with such suit in like manner as if it had been originally commenced therein.

114. The governor-general in council may appoint a registrar of the appellate division and such other officers thereof as shall be required for the proper dispatch of the business thereof.

115. (1) The laws regulating the admission of advocates and attorneys to practise before any superior court of any of the colonies shall *mutatis mutandis* apply to the admission of advocates and attorneys to practise in the corresponding division of the supreme court of South Africa.

(2) All advocates and attorneys entitled at the establishment of the Union to practise in any superior court of any of the colonies shall be entitled to practise as such in the corresponding division of the supreme court of South Africa.

(3) All advocates and attorneys entitled to practise before any provincial division of the supreme court of South Africa shall be entitled to practise before the appellate division.

116. All suits, civil or criminal, pending in any superior court of any of the colonies at the establishment of the Union shall stand removed to the corresponding division of the supreme court of South Africa, which shall have jurisdiction to hear and determine the same, and all judgments and orders of any superior court of any of the colonies given or made before the establishment of the Union shall have the same force and effect as if they had been given or made by the corresponding division of the supreme court of South Africa. All appeals to the king in council which shall be pending at the establishment of the Union shall be proceeded with as if this act had not been passed.

## VII. FINANCE AND RAILWAYS.

117. All revenues, from whatever source arising, over which the several colonies have at the establishment of the Union power of appropriation, shall vest in the governor-general in council. There shall be formed a railway and harbor fund, into which shall be paid all revenues raised or received by the governor-general in council from the administration of the railways, ports, and harbors, and such fund shall be appropriated by

parliament to the purposes of the railways, ports, and harbors in the manner prescribed by this act. There shall also be formed a consolidated revenue fund, into which shall be paid all other revenues raised or received by the governor-general in council, and such fund shall be appropriated by parliament for the purposes of the Union in the manner prescribed by this act, and subject to the charges imposed thereby.

118. The governor-general in council shall, as soon as may be after the establishment of the Union, appoint a commission, consisting of one representative from each province, and presided over by an officer from the imperial service, to institute an inquiry into the financial relations which should exist between the Union and the provinces. Pending the completion of that inquiry and until parliament otherwise provides, there shall be paid annually out of the consolidated revenue fund to the administrator of each province:

(a) an amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year, 1908-9, as voted by the legislature of the corresponding colony during the year nineteen hundred and eight;

(b) such further sums as the governor-general in council may consider necessary for the due performance of the services and duties assigned to the provinces respectively.

Until such inquiry shall be completed and parliament shall have made other provision, the executive committees in the several provinces shall annually submit estimates of their expenditure for the approval of the governor-general in council, and no expenditure shall be incurred by any executive committee which is not provided for in such approved estimates.

119. The annual interest of the public debts of the colonies and any sinking funds constituted by law at the establishment of the Union shall form a first charge on the consolidated revenue fund.

120. No money shall be withdrawn from the consolidated revenue fund or the railway and harbor fund except under appropriation made by law. But, until the expiration of two months after the first meeting of parliament, the governor-general in council may draw therefrom and expend such moneys as may be necessary for the public service, and for railway and harbor administration respectively.

121. All stocks, cash, bankers' balances, and securities for money belonging to each of the colonies at the establishment of the Union shall be the property of the Union: provided that the balances of any funds raised at the establishment of the Union by law for any special purposes

in any of the colonies shall be deemed to have been appropriated by parliament for the special purposes for which they have been provided.

122. Crown lands, public works, and all property throughout the Union, movable or immovable, and all rights of whatever description belonging to the several colonies at the establishment of the Union, shall vest in the governor-general in council subject to any debt or liability specifically charged thereon.

123. All rights in and to mines and minerals, and all rights in connection with the searching for, working for, or disposing of, minerals or precious stones, which at the establishment of the Union are vested in the government of any of the colonies, shall on such establishment vest in the governor-general in council.

124. The Union shall assume all debts and liabilities of the colonies existing at its establishment, subject, notwithstanding any other provision contained in this act, to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund, and other charges conferred on the creditors of any of the colonies, and may, subject to such conditions and rights, convert, renew, or consolidate such debts.

125. All ports, harbors, and railways belonging to the several colonies at the establishment of the Union shall from the date thereof vest in the governor-general in council. No railway for the conveyance of public traffic, and no port, harbor, or similar work, shall be constructed without the sanction of parliament.

126. Subject to the authority of the governor-general in council, the control and management of the railways, ports, and harbors of the Union shall be exercised through a board consisting of not more than three commissioners, who shall be appointed by the governor-general in council, and a minister of state, who shall be chairman. Each commissioner shall hold office for a period of five years, but may be reappointed. He shall not be removed before the expiration of his period of appointment, except by the governor-general in council for cause assigned, which shall be communicated by message to both houses of parliament within one week after the removal, if parliament be then sitting, or, if parliament be not sitting, then within one week after the commencement of the next ensuing session. The salaries of the commissioners shall be fixed by parliament and shall not be reduced during their respective terms of office.

127. The railways, ports, and harbors of the Union shall be admin-

istered on business principles, due regard being had to agricultural and industrial development within the Union and promotion, by means of cheap transport, of the settlement of an agricultural and industrial population in the inland portions of all provinces of the Union. So far as may be, the total earnings shall be not more than are sufficient to meet the necessary outlays for working, maintenance, betterment, depreciation, and the payment of interest due on capital not being capital contributed out of railway or harbor revenue and not including any sums payable out of the consolidated revenue fund in accordance with the provisions of sections one hundred and thirty and one hundred and thirty-one. The amount of interest due on such capital invested shall be paid over from the railway and harbor fund into the consolidated revenue fund. The governor-general in council shall give effect to the provisions of this section as soon as and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of four years from the establishment of the Union. During such period, if the revenues accruing to the consolidated revenue fund are insufficient to provide for the general service of the Union, and if the earnings accruing to the railway and harbor fund are in excess of the outlays specified herein, parliament may by law appropriate such excess or any part thereof towards the general expenditure of the Union, and all sums so appropriated shall be paid over to the consolidated revenue fund.

128. Notwithstanding anything to the contrary in the last preceding section, the board may establish a fund out of railway and harbor revenue to be used for maintaining, as far as may be, uniformity of rates notwithstanding fluctuations in traffic.

129. All balances standing to the credit of any fund established in any of the colonies for railway or harbor purposes at the establishment of the Union shall be under the sole control and management of the board, and shall be deemed to have been appropriated by parliament for the respective purposes for which they have been provided.

130. Every proposal for the construction of any port or harbor works or of any line of railway, before being submitted to parliament, shall be considered by the board, which shall report thereon, and shall advise whether the proposed works or line of railway should or should not be constructed. If any such works or line shall be constructed contrary to the advice of the board, and if the board is of opinion that the revenue derived from the operation of such works or line will be insufficient to



meet the costs of working and maintenance, and of interest on the capital invested therein, it shall frame an estimate of the annual loss which, in its opinion, will result from such operation. Such estimate shall be examined by the controller and auditor-general, and when approved by him the amount thereof shall be paid over annually from the consolidated revenue fund to the railway and harbor fund: provided that, if in any year the actual loss incurred, as calculated by the board and certified by the controller and auditor-general, is less than the estimate framed by the board, the amount paid over in respect of that year shall be reduced accordingly so as not to exceed the actual loss incurred. In calculating the loss arising from the operation of any such work or line, the board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

131. If the board shall be required by the governor-general in council or under any act of parliament or resolution of both houses of parliament to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities, the board shall at the end of each financial year present to parliament an account approved by the controller and auditor-general, showing, as nearly as can be ascertained, the amount of the loss incurred by reason of the provision of such services and facilities, and such amount shall be paid out of the consolidated revenue fund to the railway and harbor fund.

132. The governor-general in council shall appoint a controller and auditor-general who shall hold office during good behavior: provided that he shall be removed by the governor-general in council on an address praying for such removal presented to the governor-general by both houses of parliament: provided further that when parliament is not in session the governor-general in council may suspend such officer on the ground of incompetence or misbehavior; and, when and so often as such suspension shall take place, a full statement of the circumstances shall be laid before both houses of parliament within fourteen days after the commencement of its next session; and, if an address shall at any time during the session of parliament be presented to the governor-general by both houses praying for the restoration to office of such officer, he shall be restored accordingly; and if no such address be presented the governor-general shall confirm such suspension and shall declare the office of controller and auditor-general to be, and it shall thereupon become, vacant.

Until parliament shall otherwise provide, the controller and auditor-general shall exercise such powers and functions and undertake such duties as may be assigned to him by the governor-general in council by regulations framed in that behalf.

133. In order to compensate Pietermaritzburg and Bloemfontein for any loss sustained by them in the form of diminution of prosperity or decreased ratable value by reason of their ceasing to be the seats of government of their respective colonies, there shall be paid from the consolidated revenue fund for a period not exceeding twenty-five years to the municipal councils of such towns a grant of two *per centum per annum* on their municipal debts, as existing on the thirty-first day of January nineteen hundred and nine, and as ascertained by the controller and auditor-general. The commission appointed under section one hundred and eighteen shall, after due inquiry, report to the governor-general in council what compensation should be paid to the municipal councils of Cape Town and Pretoria for the losses, if any, similarly sustained by them. Such compensation shall be paid out of the consolidated revenue fund for a period not exceeding twenty-five years and shall not exceed one *per centum per annum* on the respective municipal debts of such towns as existing on the thirty-first day of January nineteen hundred and nine, and as ascertained by the controller and auditor-general. For the purposes of this section Cape Town shall be deemed to include the municipalities of Cape Town, Green Point, and Sea Point, Woodstock, Mowbray, and Rondebosch, Claremont, and Wynberg, and any grant made to Cape Town shall be payable to the councils of such municipalities in proportion to their respective debts. One-half of any such grants shall be applied to the redemption of the municipal debts of such towns respectively. At any time after the tenth annual grant has been paid to any of such towns the governor-general in council, with the approval of parliament, may after due inquiry withdraw or reduce the grant to such town.

#### VIII. GENERAL.

134. The election of senators and of members of the executive committees of the provincial councils as provided in this act shall, whenever such election is contested, be according to the principle of proportional representation, each voter having one transferable vote. The governor-general in council, or, in the case of the first election of the senate, the governor in council of each of the colonies, shall frame regulations pre-

scribing the method of voting and of transferring and counting votes and the duties of returning officers in connection therewith, and such regulations or any amendments thereof after being duly promulgated shall have full force and effect unless and until parliament shall otherwise provide.

135. Subject to the provisions of this act, all laws in force in the several colonies at the establishment of the Union shall continue in force in the respective provinces until repealed or amended by parliament, or by the provincial councils in matters in respect of which the power to make ordinances is reserved or delegated to them. All legal commissions in the several colonies at the establishment of the Union shall continue as if the Union had not been established.

136. There shall be free trade throughout the Union, but until parliament otherwise provides the duties of customs and of excise leviable under the laws existing in any of the colonies at the establishment of the Union shall remain in force.

137. Both the English and Dutch languages shall be official languages of the Union, and shall be treated on a footing of equality, and possess and enjoy equal freedom, rights, and privileges; all records, journals, and proceedings of parliament shall be kept in both languages, and all bills, acts, and notices of general public importance or interest issued by the government of the Union shall be in both languages.

138. All persons who have been naturalized in any of the colonies shall be deemed to be naturalized throughout the Union.

139. The administration of justice throughout the Union shall be under the control of a minister of state, in whom shall be vested all powers, authorities, and functions which shall at the establishment of the Union be vested in the attorneys-general of the colonies, save and except all powers, authorities, and functions relating to the prosecution of crimes and offences, which shall in each province be vested in an officer to be appointed by the governor-general in council, and styled the attorney-general of the province, who shall also discharge such other duties as may be assigned to him by the governor-general in council: provided that in the province of the Cape of Good Hope the solicitor-general for the eastern districts and the crown prosecutor for Griqualand West shall respectively continue to exercise the powers and duties by law vested in them at the time of the establishment of the Union.

140. Subject to the provisions of the next succeeding section, all officers of the public service of the colonies shall at the establishment of the Union become officers of the Union.

141. (1) As soon as possible after the establishment of the Union, the governor-general in council shall appoint a public service commission to make recommendations for such reorganization and readjustment of the departments of the public service as may be necessary. The commission shall also make recommendations in regard to the assignment of officers to the several provinces.

(2) The governor-general in council may after such commission has reported assign from time to time to each province such officers as may be necessary for the proper discharge of the services reserved or delegated to it, and such officers on being so assigned shall become officers of the province. Pending the assignment of such officers, the governor-general in council may place at the disposal of the provinces the services of such officers of the Union as may be necessary.

(3) The provisions of this section shall not apply to any service or department under the control of the railway and harbor board or to any person holding office under the board.

142. After the establishment of the Union the governor-general in council shall appoint a permanent public service commission with such powers and duties relating to the appointment, discipline, retirement, and superannuation of public officers as parliament shall determine.

143. Any officer of the public service of any of the colonies at the establishment of the Union who is not retained in the service of the Union or assigned to that of a province shall be entitled to receive such pension, gratuity, or other compensation as he would have received in like circumstances if the Union had not been established.

144. Any officer of the public service of any of the colonies at the establishment of the Union who is retained in the service of the Union or assigned to that of a province shall retain all his existing and accruing rights, and shall be entitled to retire from the service at the time at which he would have been entitled by law to retire, and on the pension or retiring allowance to which he would have been entitled by law in like circumstances if the Union had not been established.

145. The services of officers in the public service of any of the colonies at the establishment of the Union shall not be dispensed with by reason of their want of knowledge of either the English or Dutch language.

146. Any permanent officer of the legislature of any of the colonies who is not retained in the service of the Union or assigned to that of any province, and for whom no provision shall have been made by such legislature, shall be entitled to such pension, gratuity, or compensation as parliament may determine.

147. The control and administration of native affairs and of matters specially or differentially affecting Asiatics throughout the Union shall vest in the governor-general in council, who shall exercise all special powers in regard to native administration hitherto vested in the governors of the colonies or exercised by them as supreme chiefs, and any lands vested in the governor or governor and executive council of any colony for the purpose of reserves for native locations shall vest in the governor-general in council, who shall exercise all special powers in relation to such reserves as may hitherto have been exercisable by any such governor or governor and executive council, and no land set aside for the occupation of natives which can not at the establishment of the Union be alienated except by an act of the colonial legislature shall be alienated or in any way diverted from the purposes for which they are set apart except under the authority of an act of parliament.

148. (1) All rights and obligations under any conventions or agreements which are binding on any of the colonies shall devolve upon the Union at its establishment.

(2) The provisions of the railway agreement between the governments of the Transvaal, the Cape of Good Hope, and Natal, dated the second of February, nineteen hundred and nine, shall, as far as practicable, be given effect to by the government of the Union.

#### IX. NEW PROVINCES AND TERRITORIES.

149. Parliament may alter the boundaries of any province, divide a province into two or more provinces, or form a new province out of provinces within the Union, on the petition of the provincial council of every province whose boundaries are affected thereby.

150. The king, with the advice of the privy council, may on addresses from the houses of parliament of the Union admit into the Union the territories administered by the British South Africa Company on such terms and conditions as to representation and otherwise in each case as are expressed in the addresses and approved by the king, and the provisions of any order in council in that behalf shall have effect as if they had been enacted by the parliament of the United Kingdom of Great Britain and Ireland.

151. The king, with the advice of the privy council, may, on addresses from the houses of parliament of the Union, transfer to the Union the government of any territories, other than the territories administered by the British South Africa Company, belonging to or under the pro-

tection of his majesty, and inhabited wholly or in part by natives, and upon such transfer the governor-general in council may undertake the government of such territory upon the terms and conditions embodied in the schedule to this act.

#### X. AMENDMENT OF ACT.

152. Parliament may by law repeal or alter any of the provisions of this act: provided that no provision thereof, for the operation of which a definite period of time is prescribed, shall during such period be repealed or altered: and provided further that no repeal or alteration of the provisions contained in this section, or in sections thirty-three and thirty-four (until the number of members of the house of assembly has reached the limit therein prescribed, or until a period of ten years has elapsed after the establishment of the Union, whichever is the longer period), or in sections thirty-five and one hundred and thirty-seven, shall be valid unless the bill embodying such repeal or alteration shall be passed by both houses of parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both houses. A bill so passed at such joint sitting shall be taken to have been duly passed by both houses of parliament.

#### SCHEDULE.

1. After the transfer of the government of any territory belonging to or under the protection of his majesty the governor-general in council shall be the legislative authority, and may by proclamation make laws for the peace, order, and good government of such territory: provided that all such laws shall be laid before both houses of parliament within seven days after the issue of the proclamation or, if parliament be not then sitting, within seven days after the beginning of the next session, and shall be effectual unless and until both houses of parliament shall by resolutions passed in the same session request the governor-general in council to repeal the same, in which case they shall be repealed by proclamation.

2. The prime minister shall be charged with the administration of any territory thus transferred, and he shall be advised in the general conduct of such administration by a commission consisting of not fewer than three members with a secretary, to be appointed by the governor-general in council, who shall take the instructions of the prime minister in conducting all correspondence relating to the territories, and shall also

under the like control have custody of all official papers relating to the territories.

3. The members of the commission shall be appointed by the governor-general in council, and shall be entitled to hold office for a period of ten years, but such period may be extended to successive further terms of five years. They shall each be entitled to a fixed annual salary, which shall not be reduced during the continuance of their term of office, and they shall not be removed from office except upon addresses from both houses of parliament passed in the same session praying for such removal. They shall not be qualified to become, or to be, members of either house of parliament. One of the members of the commission shall be appointed by the governor-general in council as vice-chairman thereof. In case of the absence, illness, or other incapacity of any member of the commission, the governor-general in council may appoint some other fit and proper person to act during such absence, illness, or other incapacity.

4. It shall be the duty of the members of the commission to advise the prime minister upon all matters relating to the general conduct of the administration of, or the legislation for, the said territories. The prime minister, or another minister of state nominated by the prime minister to be his deputy for a fixed period, or, failing such nomination, the vice-chairman, shall preside at all meetings of the commission, and in case of an equality of votes shall have a casting vote. Two members of the commission shall form a quorum. In case the commission shall consist of four or more members three of them shall form a quorum.

5. Any member of the commission who dissents from the decision of a majority shall be entitled to have the reasons for his dissent recorded in the minutes of the commission.

6. The members of the commission shall have access to all official papers concerning the territories, and they may deliberate on any matter relating thereto and tender their advice thereon to the prime minister.

7. Before coming to a decision on any matter relating either to the administration, other than routine, of the territories or to legislation therefor, the prime minister shall cause the papers relating to such matter to be deposited with the secretary to the commission, and shall convene a meeting of the commission for the purpose of obtaining its opinion on such matter.

8. Where it appears to the prime minister that the despatch of any communication or the making of any order is urgently required, the communication may be sent or order made, although it has not been sub-

mitted to a meeting of the commission or deposited for the perusal of the members thereof. In any such case the prime minister shall record the reasons for sending the communication or making the order and give notice thereof to every member.

9. If the prime minister does not accept a recommendation of the commission or purposes to take some action contrary to their advice, he shall state his views to the commission, who shall be at liberty to place on record the reasons in support of their recommendation or advice. This record shall be laid by the prime minister before the governor-general in council, whose decision in the matter shall be final.

10. When the recommendations of the commission have not been accepted by the governor-general in council, or action not in accordance with their advice has been taken by the governor-general in council, the prime minister, if thereto requested by the commission, shall lay the record of their dissent from the decision or action taken and of the reasons therefor before both houses of parliament, unless in any case the governor-general in council shall transmit to the commission a minute recording his opinion that the publication of such record and reasons would be gravely detrimental to the public interest.

11. The governor-general in council shall appoint a resident commissioner for each territory, who shall, in addition to such other duties as shall be imposed on him, prepare the annual estimates of revenue and expenditure for such territory, and forward the same to the secretary to the commission for the consideration of the commission and of the prime minister. A proclamation shall be issued by the governor-general in council, giving to the provisions for revenue and expenditure made in the estimate as finally approved by the governor-general in council the force of law.

12. There shall be paid into the treasury of the Union all duties of customs levied on dutiable articles imported into and consumed in the territories, and there shall be paid out of the treasury annually towards the cost of administration of each territory a sum in respect of such duties which shall bear to the total customs revenue of the Union in respect of each financial year the same proportion as the average amount of the customs revenue of such territory for the three completed financial years last preceding the taking effect of this act bore to the average amount of the whole customs revenue for all the colonies and territories included in the Union received during the same period.

13. If the revenue of any territory for any financial year shall be



insufficient to meet the expenditure thereof, any amount required to make good the deficiency may, with the approval of the governor-general in council, and on such terms and conditions and in such manner as with the like approval may be directed or prescribed, be advanced from the funds of any other territory. In default of any such arrangement, the amount required to make good any such deficiency shall be advanced by the government of the Union. In case there shall be a surplus for any territory, such surplus shall in the first instance be devoted to the repayment of any sums previously advanced by any other territory or by the Union government to make good any deficiency in the revenue of such territory.

14. It shall not be lawful to alienate any land in Basutoland or any land forming part of the native reserves in the Bechuanaland Protectorate and Swaziland from the native tribes inhabiting those territories.

15. The sale of liquor to natives shall be prohibited in the territories and no provision giving facilities for introducing, obtaining, or possessing such liquor in any part of the territories less stringent than those existing at the time of transfer shall be allowed.

16. The custom, where it exists, of holding pitsos or other recognized forms of native assembly shall be maintained in the territories.

17. No differential duties or imposts on the produce of the territories shall be levied. The laws of the Union relating to customs and excise shall be made to apply to the territories.

18. There shall be free intercourse for the inhabitants of the territories with the rest of South Africa subject to the laws, including the pass laws, of the Union.

19. Subject to the provisions of this schedule, all revenues derived from any territory shall be expended for and on behalf of such territory: provided that the governor-general in council may make special provision for the appropriation of a portion of such revenue as a contribution towards the cost of defence and other services performed by the Union for the benefit of the whole of South Africa, so, however, that that contribution shall not bear a higher proportion to the total cost of such services than that which the amount payable under paragraph 12 of this schedule from the treasury of the Union towards the cost of the administration of the territory bears to the total customs revenue of the Union on the average of the three years immediately preceding the year for which the contribution is made.

20. The king may disallow any law made by the governor-general in

council by proclamation for any territory within one year from the date of the proclamation, and such disallowance on being made known by the governor-general by proclamation shall annul the law from the day when the disallowance is so made known.

21. The members of the commission shall be entitled to such pensions or superannuation allowances as the governor-general in council shall by proclamation provide, and the salaries and pensions of such members and all other expenses of the commission shall be borne by the territories in the proportion of their respective revenues.

22. The rights as existing at the date of transfer of officers of the public service employed in any territory shall remain in force.

23. Where any appeal may by law be made to the king in council from any court of the territories, such appeal shall, subject to the provisions of this act, be made to the appellate division of the supreme court of South Africa.

24. The commission shall prepare an annual report on the territories which shall, when approved by the governor-general in council, be laid before both houses of parliament.

25. All bills to amend or alter the provisions of this schedule shall be reserved for the signification of his majesty's pleasure.

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THE BRITISH NORTH AMERICA ACT.<sup>1</sup>

[March 29, 1867.]

An Act for the Union of Canada, Nova Scotia and New Brunswick, and the Government thereof; and for purposes connected therewith.

Whereas the provinces of Canada, Nova Scotia and New Brunswick have expressed their desire to be federally united into one Dominion under the crown of the United Kingdom of Great Britain and Ireland, with a constitution similar in principle to that of the United Kingdom:

And whereas such a union would conduce to the welfare of the provinces and promote the interests of the British empire:

And whereas on the establishment of the union by authority of parliament it is expedient, not only that the constitution of the legislative

<sup>1</sup> This and the following acts, relating to the constitutions of Canada and Australia, are reprinted from Dodd's *Modern Constitutions*, University of Chicago Press: 1909, vol. I, pp. 33-68 and 185-225. — J. B. S.

authority in the Dominion be provided for, but also that the nature of the executive government therein be declared:

And whereas it is expedient that provision be made for the eventual admission into the union of other parts of British North America:

Be it therefore enacted and declared by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same as follows:

#### I. PRELIMINARY.

1. This act may be cited as the British North America Act, 1867.
2. The provisions of this act referring to her majesty the queen extend also to the heirs and successors of her majesty, kings and queens of the United Kingdom of Great Britain and Ireland.

#### II. UNION.

3. It shall be lawful for the queen, by and with the advice of her majesty's most honourable privy council, to declare by proclamation that, on and after a day therein appointed, not being more than six months after the passing of this act, the provinces of Canada, Nova Scotia and New Brunswick shall form and be one Dominion under the name of Canada; and on and after that day those three provinces shall form and be one Dominion under that name accordingly.

4. The subsequent provisions of this act shall, unless it is otherwise expressed or implied, commence and have effect on and after the union, that is to say, on and after the day appointed for the union taking effect in the queen's proclamation; and in the same provisions, unless it is otherwise expressed or implied, the name Canada shall be taken to mean Canada as constituted under this act.

5. Canada shall be divided into four provinces, named Ontario, Quebec, Nova Scotia and New Brunswick.<sup>2</sup>

6. The parts of the province of Canada (as it exists at the passing of this act) which formerly constituted respectively the provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form two separate provinces. The part which formerly constituted the prov-

<sup>2</sup> The following additions have been made to the membership of the confederation: Manitoba, July 15, 1870; British Columbia, July 20, 1871; Prince Edward Island, July 1, 1873; Alberta and Saskatchewan, September 1, 1905. Newfoundland has never joined the union.

ince of Upper Canada shall constitute the province of Ontario; and the part which formerly constituted the province of Lower Canada shall constitute the province of Quebec.

7. The provinces of Nova Scotia and New Brunswick shall have the same limits as at the passing of this act.

8. In the general census of the population of Canada, which is hereby required to be taken in the year one thousand eight hundred and seventy-one, and in every tenth year thereafter, the respective populations of the four provinces shall be distinguished.

### III. EXECUTIVE POWER.

9. The executive government and authority of and over Canada is hereby declared to continue and be vested in the queen.

10. The provisions of this act referring to the governor-general extend and apply to the governor-general for the time being of Canada, or other the chief executive officer or administrator for the time being carrying on the government of Canada on behalf and in the name of the queen, by whatever title he is designated.

11. There shall be a council to aid and advise in the government of Canada, to be styled the queen's privy council for Canada; and the persons who are to be members of that council shall be from time to time chosen and summoned by the governor-general and sworn in as privy councillors, and members thereof may be from time to time removed by the governor-general.

12. All powers, authorities and functions, which under any act of the parliament of Great Britain, or of the parliament of the United Kingdom of Great Britain and Ireland, or of the legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the union vested in or exercisable by the respective governors or lieutenant-governors of those provinces with the advice, or with the advice and consent, of the respective executive councils thereof, or in conjunction with those councils, or with any number of members thereof, or by those governors or lieutenant-governors individually, shall, as far as the same continue in existence and capable of being exercised after the union in relation to the government of Canada, be vested in and exercisable by the governor-general, with the advice, or with the advice and consent, of or in conjunction with the queen's privy council for Canada, or any members thereof, or by the governor-general individually, as the case requires, subject, nevertheless (except with respect to such as exist under

acts of the parliament of Great Britain or of the parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the parliament of Canada.

13. The provisions of this act referring to the governor-general in council shall be construed as referring to the governor-general acting by and with the advice of the queen's privy council for Canada.

14. It shall be lawful for the queen, if her majesty thinks fit, to authorize the governor-general from time to time to appoint any person or persons jointly or severally to be his deputy or deputies within any part or parts of Canada, and in that capacity to exercise during the pleasure of the governor-general such of the powers, authorities and functions of the governor-general as the governor-general deems it necessary or expedient to assign to him or them, subject to any limitations or directions expressed or given by the queen; but the appointment of such a deputy or deputies shall not affect the exercise by the governor-general himself of any power, authority or function.

15. The command-in-chief of the land and naval militia, and of all naval and military forces, of and in Canada, is hereby declared to continue and be vested in the queen.

16. Until the queen otherwise directs, the seat of government of Canada shall be Ottawa.

#### IV. LEGISLATIVE POWER.

17. There shall be one parliament for Canada, consisting of the queen, an upper house styled the senate, and the house of commons.

18. The privileges, immunities and powers to be held, enjoyed and exercised by the senate and by the house of commons, and by the members thereof respectively, shall be such as are from time to time defined by act of parliament of Canada, but so that the same shall never exceed those at the passing of this act held, enjoyed and exercised by the commons house of parliament of the United Kingdom of Great Britain and Ireland and by the members thereof.<sup>3</sup>

19. The parliament of Canada shall be called together not later than six months after the union.

20. There shall be a session of the parliament of Canada once at least in every year, so that twelve months shall not intervene between the last sitting of the parliament in one session and in its first sitting in the next session.

<sup>3</sup> Repealed and replaced by act of 1875; see p. 69.

## THE SENATE.

21. The senate shall, subject to the provisions of this act, consist of seventy-two members, who shall be styled senators.<sup>4</sup>

22. In relation to the constitution of the senate, Canada shall be deemed to consist of three divisions:

1. Ontario;

2. Quebec;

3. The Maritime provinces, Nova Scotia and New Brunswick; which three divisions shall (subject to the provisions of this act) be equally represented in the senate as follows: Ontario by twenty-four senators; Quebec by twenty-four senators; and the Maritime provinces by twenty-four senators, twelve thereof representing Nova Scotia and twelve thereof representing New Brunswick.

In the case of Quebec, each of the twenty-four senators representing that province shall be appointed for one of the twenty-four electoral divisions of Lower Canada specified in schedule A to chapter one of the consolidated statutes of Canada.

23. The qualifications of a senator shall be as follows:

1) He shall be of the full age of thirty years:

2) He shall be either a natural-born subject of the queen, or a subject of the queen naturalized by an act of the parliament of Great Britain, or of the parliament of the United Kingdom of Great Britain and Ireland, or of the legislature of one of the provinces of Upper Canada, Lower Canada, Canada, Nova Scotia or New Brunswick before the union, or of the parliament of Canada after the union:

3) He shall be legally or equitably seized as of freehold for his own use and benefit of lands or tenements held in free and common socage, or seized or possessed for his own use and benefit of lands or tenements held in franc-alieu or in roture, within the province for which he is appointed, of the value of four thousand dollars, over and above all rents, dues, debts, charges, mortgages and encumbrances due or payable out of, or charged on or affecting the same:

4) His real and personal property shall be together worth four thousand dollars over and above his debts and liabilities:

<sup>4</sup> By the British North America Act of 1871 the Canadian parliament was empowered to make provision for the representation therein of provinces subsequently admitted. Manitoba has 4 senators. British Columbia 3. Alberta and Saskatchewan 4 each, making a total of 87 senators. See sec. 147 for the representation of Prince Edward Island in the Senate.

5) He shall be resident in the province for which he is appointed:

6) In the case of Quebec, he shall have his real property qualification in the electoral division for which he is appointed, or shall be resident in that division.

24. The governor-general shall from time to time, in the queen's name, by instrument under the great seal of Canada, summon qualified persons to the senate; and, subject to the provisions of this act, every person so summoned shall become and be a member of the senate and a senator.

25. Such persons shall be first summoned to the senate as the queen by warrant under her majesty's royal sign manual thinks fit to approve, and their names shall be inserted in the queen's proclamation of union.

26. If at any time, on the recommendation of the governor-general, the queen thinks fit to direct that three or six members be added to the senate, the governor-general may, by summons to three or six qualified persons (as the case may be), representing equally the three divisions of Canada, add to the senate accordingly.

27. In case of such addition being at any time made, the governor-general shall not summon any person to the senate, except on a further like direction by the queen on the like recommendation, until each of the three divisions of Canada is represented by twenty-four senators, and no more.

28. The number of senators shall not at any time exceed seventy-eight.

29. A senator shall, subject to the provisions of this act, hold his place in the senate for life.

30. A senator may, by writing under his hand, addressed to the governor-general, resign his place in the senate, and thereupon the same shall be vacant.

31. The place of a senator shall become vacant in any of the following cases:

1) If for two consecutive sessions of the parliament he fails to give his attendance in the senate:

2) If he takes an oath or makes a declaration or acknowledgment of allegiance, obedience or adherence to a foreign power, or does an act whereby he becomes a subject or citizen, or entitled to the rights and privileges of a subject or citizen of a foreign power:

3) If he is adjudged bankrupt or insolvent, or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter:

4) If he is attainted of treason, or convicted of felony or of any infamous crime:

5) If he ceases to be qualified in respect of property or of residence: provided that a senator shall not be deemed to have ceased to be qualified in respect of residence by reason only of his residing at the seat of the government of Canada while holding an office under that government requiring his presence there.

32. When a vacancy happens in the senate, by resignation, death or otherwise, the governor-general shall, by summons to a fit and qualified person, fill the vacancy.

33. If any question arises respecting the qualification of a senator or a vacancy in the senate, the same shall be heard and determined by the senate.

34. The governor-general may from time to time, by instrument under the great seal of Canada, appoint a senator to be speaker of the senate, and may remove him and appoint another in his stead.

35. Until the parliament of Canada otherwise provides, the presence of at least fifteen senators, including the speaker, shall be necessary to constitute a meeting of the senate for the exercise of its powers.

36. Questions arising in the senate shall be decided by a majority of voices, and the speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

#### THE HOUSE OF COMMONS.

37. The house of commons shall, subject to the provisions of this act, consist of one hundred and eighty-one members, of whom eighty-two shall be elected for Ontario, sixty-five for Quebec, nineteen for Nova Scotia, and fifteen for New Brunswick.<sup>5</sup>

38. The governor-general shall from time to time, in the queen's name, by instrument under the great seal of Canada, summon and call together the house of commons.

39. A senator shall not be capable of being elected or of sitting or voting as a member of the house of commons.

40. Until the parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia and New Brunswick shall, for the purposes of the election of members to serve in the house of commons, be divided into electoral districts as follows:

<sup>5</sup> According to the apportionment act of October 24, 1903, the house of commons is now composed of 214 members, of whom 86 are elected for Ontario, 65 for Quebec, 18 for Nova Scotia, 13 for New Brunswick, 10 for Manitoba, 7 for British Columbia, 4 for Prince Edward Island, 5 each for Saskatchewan and Alberta, and 1 for the territory of Yukon.



### 1. *Ontario.*

Ontario shall be divided into the counties, ridings of counties, cities, parts of cities, and towns enumerated in the first schedule to this act, each whereof shall be an electoral district, each such district as numbered in that schedule being entitled to return one member.

### 2. *Quebec.*

Quebec shall be divided into sixty-five electoral districts, composed of the sixty-five electoral divisions into which Lower Canada is, at the passing of this act, divided under chapter two of the consolidated statutes of Canada, chapter seventy-five of the consolidated statutes for Lower Canada, and the act of the province of Canada of the twenty-third year of the queen, chapter one, or any other act amending the same in force at the union, so that each such electoral division shall be for the purposes of this act an electoral district entitled to return one member.

### 3. *Nova Scotia.*

Each of the eighteen counties of Nova Scotia shall be an electoral district. The county of Halifax shall be entitled to return two members, and each of the other counties one member.

### 4. *New Brunswick.*

Each of the fourteen counties into which New Brunswick is divided, including the city and county of St. John, shall be an electoral district. The city of St. John shall also be a separate electoral district. Each of those fifteen electoral districts shall be entitled to return one member.

41. Until the parliament of Canada otherwise provides, all laws in force in the several provinces at the union relative to the following matters or any of them, namely — the qualifications and disqualifications of persons to be elected or to sit or vote as members of the house of assembly or legislative assembly in the several provinces, the voters at elections of such members, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which elections may be continued, the trial of controverted elections, and proceedings incident thereto, the vacating of seats of members, and the execution of new writs in case of seats vacated otherwise than by dissolution — shall respectively apply to elections of members to serve in the house of commons for the same several provinces.

Provided that, until the parliament of Canada otherwise provides, at any election for a member of the house of commons for the district of Algoma, in addition to persons qualified by the law of the province of Canada to vote, every male British subject, aged twenty-one years or upwards, being a house-holder, shall have a vote.

42. For the first election of members to serve in the house of commons the governor-general shall cause writs to be issued by such person, in such form and addressed to such returning officers as he thinks fit.

The persons issuing writs under this section shall have the like powers as are possessed at the union by the officers charged with the issuing of writs for the election of members to serve in the respective house of assembly or legislative assembly of the province of Canada, Nova Scotia or New Brunswick; and the returning officers to whom writs are directed under this section shall have the like powers as are possessed at the union by the officers charged with the returning of writs for the election of members to serve in the same respective house of assembly or legislative assembly.

43. In case a vacancy in the representation in the house of commons of any electoral district happens before the meeting of the parliament or after the meeting of the parliament before provision is made by the parliament in this behalf, the provisions of the last foregoing section of this act shall extend and apply to the issuing and returning of a writ in respect of such vacant district.

44. The house of commons, on its first assembling after a general election, shall proceed with all practicable speed to elect one of its members to be speaker.

45. In case of a vacancy happening in the office of speaker, by death, resignation or otherwise, the house of commons shall, with all practicable speed, proceed to elect another of its members to be speaker.

46. The speaker shall preside at all meetings of the house of commons.

47. Until the parliament of Canada otherwise provides, in case of the absence for any reason, of the speaker from the chair of the house of commons for a period of forty-eight consecutive hours, the house may elect another of its members to act as speaker, and the member so elected, shall, during the continuance of such absence of the speaker, have and execute all the powers, privileges and duties of speaker.

48. The presence of at least twenty members of the house of commons shall be necessary to constitute a meeting of the house for the exercise of its powers, and for that purpose the speaker shall be reckoned as a member.

49. Questions arising in the house of commons shall be decided by a majority of voices other than that of the speaker, and when the voices are equal, but not otherwise, the speaker shall have a vote.

50. Every house of commons shall continue for five years from the day of the return of the writs for choosing the house (subject to be sooner dissolved by the governor-general), and no longer.

51. On the completion of the census in the year one thousand eight hundred and seventy-one, and of each subsequent decennial census, the representation of the four provinces shall be readjusted by such authority, in such manner, and from such time as the parliament of Canada from time to time provides, subject and according to the following rules:

1) Quebec shall have the fixed number of sixty-five members:

2) There shall be assigned to each of the other provinces such a number of members as will bear the same proportion to the number of its population (ascertained at such census) as the number of sixty-five bears to the number of the population of Quebec (so ascertained):

3) In the computation of the number of members for a province a fractional part not exceeding one-half of the whole number requisite for entitling the province to a member shall be disregarded; but a fractional part exceeding one-half of that number shall be equivalent to the whole number:

4) On any such readjustment the number of members for a province shall not be reduced unless the proportion which the number of the population of the province bore to the number of the aggregate population of Canada at the then last preceding readjustment of the number of members for the province is ascertained at the then latest census to be diminished by one twentieth part or upwards:

5) Such readjustment shall not take effect until the termination of the then existing parliament.

52. The number of members of the house of commons may be from time to time increased by the parliament of Canada, provided the proportionate representation of the provinces prescribed by this act is not thereby disturbed.

*Money Votes; Royal Assent.*

53. Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the house of commons.

54. It shall not be lawful for the house of commons to adopt or pass any vote, resolution, address, or bill for the appropriation of any part of

the public revenue, or of any tax or impost, to any purpose that has not been first recommended to that house by message of the governor-general in the session in which such vote, resolution, address, or bill is proposed.

55. Where a bill passed by the houses of the parliament is presented to the governor-general for the queen's assent, he shall declare, according to his discretion, but subject to the provisions of this act and to her majesty's instructions, either that he assents thereto in the queen's name, or that he withholds the queen's assent, or that he reserves the bill for the signification of the queen's pleasure.

56. Where the governor-general assents to a bill in the queen's name, he shall by the first convenient opportunity send an authentic copy of the act to one of her majesty's principal secretaries of state, and if the queen in council within two years after receipt thereof by the secretary of state thinks fit to disallow the act, such disallowance (with a certificate of the secretary of state of the day on which the act was received by him) being signified by the governor-general, by speech or message to each of the houses of the parliament or by proclamation, shall annul the act from and after the day of such signification.

57. A bill reserved for the signification of the queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the governor-general for the queen's assent, the governor-general signifies, by speech or message to each of the houses of the parliament or by proclamation, that it has received the assent of the queen in council.

An entry of every such speech, message or proclamation shall be made in the journal of each house, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the records of Canada.

## V. PROVINCIAL CONSTITUTIONS.

### EXECUTIVE POWER.

58. For each province there shall be an officer, styled the lieutenant-governor, appointed by the governor-general in council by instrument under the great seal of Canada.

59. A lieutenant-governor shall hold office during the pleasure of the governor-general; but any lieutenant-governor appointed after the commencement of the first session of the parliament of Canada shall not be removable within five years from his appointment, except for cause assigned which shall be communicated to him in writing within one

month after the order for his removal is made, and shall be communicated by message to the senate and to the house of commons, within one week thereafter if the parliament is then sitting, and if not then within one week after the commencement of the next session of the parliament.

60. The salaries of the lieutenant-governors shall be fixed and provided by the parliament of Canada.

61. Every lieutenant-governor shall, before assuming the duties of his office, make and subscribe before the governor-general or some person authorized by him, oaths of allegiance and office similar to those taken by the governor-general.

62. The provisions of this act referring to the lieutenant-governor extend and apply to the lieutenant-governor for the time being of each province or other the chief executive officer or administrator for the time being carrying on the government of the province, by whatever title he is designated.

63. The executive council of Ontario and of Quebec shall be composed of such persons as the lieutenant-governor from time to time thinks fit, and in the first instance of the following officers, namely — the attorney-general, the secretary and registrar of the province, the treasurer of the province, the commissioner of crown lands, and the commissioner of agriculture and public works, with, in Quebec, the speaker of the legislative council and the solicitor-general.

64. The constitution of the executive authority in each of the provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this act, continue as it exists at the union until altered under the authority of this act.

65. All powers, authorities and functions, which under any act of the parliament of Great Britain, or of the parliament of the United Kingdom of Great Britain and Ireland, or of the legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the union vested in or exercisable by the respective governors or lieutenant-governors of those provinces, with the advice, or with the advice and consent, of the respective executive councils thereof, or in conjunction with those councils or with any number of members thereof, or by those governors or lieutenant-governors individually, shall, as far as the same are capable of being exercised after the union in relation to the government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the lieutenant-governor of Ontario and Quebec respectively, with the advice or with the advice and consent of or in conjunction with the respective

executive councils or any members thereof, or by the lieutenant-governor individually, as the case requires, subject nevertheless (except with respect to such as exist under acts of the parliament of Great Britain or of the parliament of the United Kingdom of Great Britain and Ireland), to be abolished or altered by the respective legislatures of Ontario and Quebec.

66. The provisions of this act referring to the lieutenant-governor in council shall be construed as referring to the lieutenant-governor of the province acting by and with the advice of the executive council thereof.

67. The governor-general in council may from time to time appoint an administrator to execute the office and functions of lieutenant-governor during his absence, illness, or other inability.

68. Unless and until the executive government of any province otherwise directs with respect to that province, the seats of government of the provinces shall be as follows, namely — of Ontario, the city of Toronto; of Quebec, the city of Quebec; of Nova Scotia, the city of Halifax; and of New Brunswick, the city of Fredericton.

#### LEGISLATIVE POWER.

##### *1. Ontario.*

69. There shall be a legislature for Ontario, consisting of the lieutenant-governor and of one house, styled the legislative assembly of Ontario.

70. The legislative assembly of Ontario shall be composed of eighty-two members, to be elected to represent the eighty-two electoral districts set forth in the first schedule to this act.

##### *2. Quebec.*

71. There shall be a legislature for Quebec, consisting of the lieutenant-governor and two houses, styled the legislative council of Quebec and the legislative assembly of Quebec.

72. The legislative council of Quebec shall be composed of twenty-four members, to be appointed by the lieutenant-governor in the queen's name by instrument under the great seal of Quebec, one being appointed to represent each of the twenty-four electoral divisions of Lower Canada in this act referred to, and each holding office for the term of his life, unless the legislature of Quebec otherwise provides under the provisions of this act.

73. The qualifications of the legislative councillors of Quebec shall be the same as those of the senators for Quebec.

74. The place of a legislative councillor of Quebec shall become vacant in the cases, *mutatis mutandis*, in which the place of senator becomes vacant.

75. When a vacancy happens in the legislative council of Quebec by resignation, death, or otherwise, the lieutenant-governor, in the queen's name, by instrument under the great seal of Quebec, shall appoint a fit and qualified person to fill the vacancy.

76. If any question arises respecting the qualifications of a legislative councillor of Quebec, or a vacancy in the legislative council of Quebec, the same shall be heard and determined by the legislative council.

77. The lieutenant-governor may, from time to time, by instrument under the great seal of Quebec, appoint a member of the legislative council of Quebec to be speaker thereof, and may remove him and appoint another in his stead.

78. Until the legislature of Quebec otherwise provides, the presence of at least ten members of the legislative council, including the speaker, shall be necessary to constitute a meeting for the exercise of its powers.

79. Questions arising in the legislative council of Quebec shall be decided by a majority of voices, and the speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

80. The legislative assembly of Quebec shall be composed of sixty-five members, to be elected to represent the sixty-five electoral divisions or districts of Lower Canada in this act referred to, subject to alteration thereof by the legislature of Quebec: provided that it shall not be lawful to present to the lieutenant-governor of Quebec for assent any bill for altering the limits of any of the electoral divisions or districts mentioned in the second schedule to this act, unless the second and third readings of such bill have been passed in the legislative assembly with the concurrence of the majority of the members representing all those electoral divisions or districts, and the assent shall not be given to such bill unless an address has been presented by the legislative assembly to the lieutenant-governor stating that it has been so passed.

### 3. Ontario and Quebec.

81. The legislatures of Ontario and Quebec, respectively, shall be called together not later than six months after the union.

82. The lieutenant-governor of Ontario and of Quebec shall, from time to time, in the queen's name, by instrument under the great seal of the province, summon and call together the legislative assembly of the province.

83. Until the legislature of Ontario or of Quebec otherwise provides, a person accepting or holding in Ontario, or in Quebec, any office, commission or employment, permanent or temporary, at the nomination of the lieutenant-governor, to which an annual salary, or any fee, allowance, emolument or profit of any kind or amount whatever from the province is attached, shall not be eligible as a member of the legislative assembly of the respective province, nor shall he sit or vote as such; but nothing in this section shall make ineligible any person being a member of the executive council of the respective province, or holding any of the following offices, that is to say: the offices of attorney-general, secretary and registrar of the province, treasurer of the province, commissioner of crown lands, and commissioner of agriculture and public works, and in Quebec, solicitor-general, or shall disqualify him to sit or vote in the house for which he is elected, provided he is elected while holding such office.

84. Until the legislatures of Ontario and Quebec respectively otherwise provide, all laws which at the union are in force in those provinces respectively, relative to the following matters or any of them, namely — the qualifications and disqualifications of persons to be elected or to sit or vote as members of the assembly of Canada, the qualifications or disqualifications of voters, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which such elections may be continued, and the trial of controverted elections and the proceedings incident thereto, the vacating of the seats of members, and the issuing and execution of new writs in case of seats vacated otherwise than by dissolution — shall respectively apply to elections of members to serve in the respective legislative assemblies of Ontario and Quebec.

Provided that until the legislature of Ontario otherwise provides, at any election for a member of the legislative assembly of Ontario for the district of Algoma, in addition to persons qualified by the law of the province of Canada to vote, every male British subject aged twenty-one years or upwards, being a householder, shall have a vote.

85. Every legislative assembly of Ontario and every legislative assembly of Quebec shall continue for four years from the day of the return



of the writs for choosing the same (subject, nevertheless, to either the legislative assembly of Ontario or the legislative assembly of Quebec being sooner dissolved by the lieutenant-governor of the province), and no longer.

86. There shall be a session of the legislature of Ontario and of that of Quebec once at least in every year so that twelve months shall not intervene between the last sitting of the legislature in each province in one session and its first sitting in the next session.

87. The following provisions of this act respecting the house of commons of Canada, shall extend and apply to the legislative assemblies of Ontario and Quebec, that is to say — the provisions relating to the election of a speaker originally and on vacancies, the duties of the speaker, the absence of the speaker, the quorum, and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to each such legislative assembly.

#### *4. Nova Scotia and New Brunswick.*

88. The constitution of the legislature of each of the provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this act, continue as it exists at the union until altered under the authority of this act; and the house of assembly of New Brunswick existing at the passing of this act shall, unless sooner dissolved, continue for the period for which it was elected.

#### *5. Ontario, Quebec and Nova Scotia.*

89. Each of the lieutenant-governors of Ontario, Quebec, and Nova Scotia, shall cause writs to be issued for the first election of members of the legislative assembly thereof in such form and by such person as he thinks fit, and at such time and addressed to such returning officer as the governor-general directs, and so that the first election of member of assembly for any electoral district or any subdivision thereof shall be held at the same time and at the same places as the election for a member to serve in the house of commons of Canada for that electoral district.

#### *6. The Four Provinces.*

90. The following provisions of this act respecting the parliament of Canada, namely — the provisions relating to appropriation and tax bills, the recommendation of money votes, the assent to bills, the disallowance of acts and the signification of pleasure on bills reserved — shall extend

and apply to the legislatures of the several provinces as if those provisions were here re-enacted and made applicable in terms to the respective provinces and the legislatures thereof, with the substitution of the lieutenant-governor of the province for the governor-general, of the governor-general for the queen and for a secretary of state, of one year for two years, and of the province for Canada.

## VI. DISTRIBUTION OF LEGISLATIVE POWERS.

### POWERS OF THE PARLIAMENT.

91. It shall be lawful for the queen, by and with the advice and consent of the senate and house of commons, to make laws for the peace, order and good government of Canada, in relation to all matters not coming within the classes of subjects by this act assigned exclusively to the legislatures of the provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding anything in this act) the exclusive legislative authority of the parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated, that is to say —

- 1) The public debt and property.
- 2) The regulation of trade and commerce.
- 3) The raising of money by any mode or system of **taxation**.
- 4) The borrowing of money on the public credit.
- 5) Postal service.
- 6) The census and statistics.
- 7) Militia, military and naval service and defence.
- 8) The fixing of and providing for the salaries and allowances of civil and other officers of the government of Canada.
- 9) Beacons, buoys, lighthouses and Sable island.
- 10) Navigation and shipping.
- 11) Quarantine and the establishment and maintenance of marine hospitals.
- 12) Sea coast and inland fisheries.
- 13) Ferries between a province and any British or foreign country, or between two provinces.
- 14) Currency and coinage.
- 15) Banking, incorporation of banks and the issue of paper money.
- 16) Savings banks.

- 17) Weights and measures.
- 18) Bills of exchange and promissory notes.
- 19) Interest.
- 20) Legal tender.
- 21) Bankruptcy and insolvency.
- 22) Patents of invention and discovery.
- 23) Copyrights.
- 24) Indians and lands reserved for the Indians.
- 25) Naturalization and aliens.
- 26) Marriage and divorce.
- 27) The criminal law, except the constitution of courts of criminal jurisdiction, but including the procedure in criminal matters.
- 28) The establishment, maintenance and management of penitentiaries.
- 29) Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this act assigned exclusively to the legislatures of the provinces.

And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this act assigned exclusively to the legislatures of the provinces.

#### EXCLUSIVE POWERS OF PROVINCIAL LEGISLATURES.

92. In each province the legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say —

- 1) The amendment from time to time, notwithstanding anything in this act, of the constitution of the province, except as regards the office of lieutenant-governor.
- 2) Direct taxation within the province in order to the raising of a revenue for provincial purposes.
- 3) The borrowing of money on the sole credit of the province.
- 4) The establishment and tenure of provincial offices, and the appointment and payment of provincial officers.
- 5) The management and sale of the public lands belonging to the province, and the timber and wood thereon.
- 6) The establishment, maintenance, and management of public and reformatory prisons in and for the province.

7) The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions in and for the province, other than marine hospitals.

8) Municipal institutions in the province.

9) Shop, saloon, tavern, auctioneer, and other licenses, in order to the raising of a revenue for provincial, local, or municipal purposes.

10) Local works and undertakings, other than such as are of the following classes:—

a) Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the province with any other or others of the provinces, or extending beyond the limits of the province:

b) Lines of steamships between the province and any British or foreign country:

c) Such works as, although wholly situate within the province, are before or after their execution declared by the parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the provinces.

11) The incorporation of companies with provincial objects.

12) The solemnization of marriage in the province.

13) Property and civil rights in the province.

14) The administration of justice in the province, including the constitution, maintenance and organization of provincial courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those courts.

15) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

16) Generally all matters of a merely local or private nature in the province.

#### EDUCATION.

93. In and for each province the legislature may exclusively make laws in relation to education, subject and according to the following provisions:—

1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the union.

2) All the powers, privileges and duties at the union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the queen's Roman Catholic subjects, shall be and the same

are hereby extended to the dissentient schools of the queen's Protestant and Roman Catholic subjects in Quebec.

3) Where in any province a system of separate or dissentient schools exists by law at the union, or is thereafter established by the legislature of the province, an appeal shall lie to the governor-general in council from any act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the queen's subjects in relation to education.

4) In case any such provincial law as from time to time seems to the governor-general in council requisite for the due execution of the provisions of this section is not made, or in case any decision of the governor-general in council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the governor-general in council under this section.

#### UNIFORMITY OF LAWS IN ONTARIO, NOVA SCOTIA, AND NEW BRUNSWICK.

94. Notwithstanding anything in this act, the parliament of Canada may make provision for the uniformity of all or any of the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and of the procedure of all or any of the courts in those three provinces, and from and after the passing of any act in that behalf, the power of the parliament of Canada to make laws in relation to any matter comprised in any such act shall, notwithstanding anything in this act, be unrestricted; but any act of the parliament of Canada making provision for such uniformity shall not have effect in any province unless and until it is adopted and enacted as law by the legislature thereof.

#### AGRICULTURE AND IMMIGRATION.

95. In each province the legislature may make laws in relation to agriculture in the province, and to immigration into the province; and it is hereby declared that the parliament of Canada may from time to time make laws in relation to agriculture in all or any of the provinces and to immigration into all or any of the provinces; and any law of the legislature of a province, relative to agriculture or to immigration, shall have effect in and for the province, as long and as far only as it is not repugnant to any act of the parliament of Canada.

## VII. JUDICATURE.

96. The governor-general shall appoint the judges of the superior, district and county courts in each province, except those of the courts of probate in Nova Scotia and New Brunswick.

97. Until the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and the procedure of the courts in those provinces, are made uniform, the judges of the courts of those provinces appointed by the governor-general shall be selected from the respective bars of those provinces.

98. The judges of the courts of Quebec shall be selected from the bar of that province.

99. The judges of the superior courts shall hold office during good behaviour, but shall be removable by the governor-general on address of the senate and house of commons.

100. The salaries, allowances and pensions of the judges of the superior, district and county courts (except the courts of probate in Nova Scotia and New Brunswick), and of the admiralty courts in cases where the judges thereof are for the time being paid by salary, shall be fixed and provided by the parliament of Canada.

101. The parliament of Canada may, notwithstanding anything in this act, from time to time provide for the constitution, maintenance and organization of a general court of appeal for Canada, and for the establishment of any additional courts for the better administration of the laws of Canada.

## VIII. REVENUES; DEBTS; ASSETS; TAXATION.

102. All duties and revenues over which the respective legislatures of Canada, Nova Scotia and New Brunswick before and at the union had and have power of appropriation, except such portions thereof as are by this act reserved to the respective legislatures of the provinces, or are raised by them in accordance with the special powers conferred on them by this act, shall form one consolidated revenue fund, to be appropriated for the public service of Canada in the manner and subject to the charges in this act provided.

103. The consolidated revenue fund of Canada shall be permanently charged with the costs, charges and expenses incident to the collection, management and receipt thereof, and the same shall form the first charge thereon, subject to be reviewed and audited in such manner as shall be ordered by the governor-general in council until the parliament otherwise provides.

104. The annual interest of the public debts of the several provinces of Canada, Nova Scotia and New Brunswick at the union shall form the second charge on the consolidated revenue fund of Canada.

105. Unless altered by the parliament of Canada, the salary of the governor-general shall be ten thousand pounds sterling money of the United Kingdom of Great Britain and Ireland, payable out of the consolidated revenue fund of Canada, and the same shall form the third charge thereon.

106. Subject to the several payments by this act charged on the consolidated revenue fund of Canada, the same shall be appropriated by the parliament of Canada, for the public service.

107. All stocks, cash, bankers' balances, and securities for money belonging to each province at the time of the union, except as in this act mentioned, shall be the property of Canada, and shall be taken in reduction of the amount of the respective debts of the provinces at the union.

108. The public works and property of each province enumerated in the third schedule to this act shall be the property of Canada.

109. All lands, mines, minerals, and royalties belonging to the several provinces of Canada, Nova Scotia and New Brunswick at the union, and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the several provinces of Ontario, Quebec, Nova Scotia and New Brunswick in which the same are situate or arise, subject to any trust existing in respect thereof, and to any interest other than that of the province in the same.

110. All assets connected with such portions of the public debt of each province as are assumed by that province shall belong to that province.

111. Canada shall be liable for the debts and liabilities of each province existing at the union.

112. Ontario and Quebec conjointly shall be liable to Canada for the amount (if any) by which the debt of the province of Canada exceeds at the union sixty-two million five hundred thousand dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

113. The assets enumerated in the fourth schedule to this act, belonging at the union to the province of Canada, shall be the property of Ontario and Quebec conjointly.

114. Nova Scotia shall be liable to Canada for the amount (if any) by which its public debt exceeds at the union eight million dollars, and

shall be charged with interest at the rate of five per centum per annum thereon.

115. New Brunswick shall be liable to Canada for the amount (if any) by which its public debt exceeds at the union seven million dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

116. In case the public debts of Nova Scotia and New Brunswick do not at the union amount to eight million and seven million dollars respectively, they shall respectively receive, by half-yearly payments in advance from the government of Canada, interest at five per centum per annum on the difference between the actual amounts of their respective debts and such stipulated amounts.

117. The several provinces shall retain all their respective public property not otherwise disposed of in this act, subject to the right of Canada to assume any lands or public property required for fortifications or for the defence of the country.

118. The following sums shall be paid yearly by Canada to the several provinces for the support of their governments and legislatures:

Ontario . . . . .	\$80,000
Quebec . . . . .	70,000
Nova Scotia . . . . .	60,000
New Brunswick . . . . .	50,000
	<hr/>
	\$260,000

and an annual grant in aid of each province shall be made, equal to eighty cents per head of the population, as ascertained by the census of one thousand eight hundred and sixty-one, and in the case of Nova Scotia and New Brunswick, by each subsequent decennial census until the population of each of those two provinces amounts to four hundred thousand souls, at which rate such grant shall thereafter remain. Such grants shall be in full settlement of all future demands on Canada, and shall be paid half-yearly in advance to each province; but the government of Canada shall deduct from such grants, as against any province, all sums chargeable as interest on the public debt of that province in excess of the several amounts stipulated in this act.

119. New Brunswick shall receive by half-yearly payments in advance from Canada, for a period of ten years from the union, an additional allowance of sixty-three thousand dollars per annum; but as long as



the public debt of that province remains under seven millions dollars, a deduction equal to the interest at five per centum per annum on such deficiency shall be made from that allowance of sixty-three thousand dollars.

120. All payments to be made under this act, or in discharge of liabilities created under any act of the provinces of Canada, Nova Scotia and New Brunswick, respectively, and assumed by Canada shall, until the parliament of Canada otherwise directs, be made in such form and manner as may from time to time be ordered by the governor-general in council.

121. All articles of the growth, produce, or manufacture of any one of the provisions shall, from and after the union, be admitted free into each of the other provinces.

122. The customs and excise laws of each province shall, subject to the provisions of this act, continue in force until altered by the parliament of Canada.

123. Where customs duties are at the union leviable on any goods, wares or merchandises in any two provinces, those goods, wares and merchandises may, from and after the union, be imported from one of those provinces into the other of them on proof of payment of the customs duty leviable thereon in the province of exportation, and on payment of such further amount (if any) of customs duty as is leviable thereon in the province of importation.

124. Nothing in this act shall affect the right of New Brunswick to levy the lumber dues provided in chapter fifteen of title three of the revised statutes of New Brunswick, or in any act amending that act before or after the union, and not increasing the amount of such dues; but the lumber of any of the provinces other than New Brunswick shall not be subject to such dues.

125. No lands or property belonging to Canada or any province shall be liable to taxation.

126. Such portions of the duties and revenues over which the respective legislatures of Canada, Nova Scotia and New Brunswick had before the union power of appropriation as are by this act reserved to the respective governments or legislatures of the provinces, and all duties and revenues raised by them in accordance with the special powers conferred upon them by this act, shall in each province form one consolidated revenue fund to be appropriated for the public service of the province.

## IX. MISCELLANEOUS PROVISIONS.

## GENERAL.

127. If any person being, at the passing of this act, a member of the legislative council of Canada, Nova Scotia, or New Brunswick, to whom a place in the senate is offered, does not within thirty days thereafter, by writing under his hand, addressed to the governor-general of the province of Canada, or to the lieutenant-governor of Nova Scotia or New Brunswick (as the case may be), accept the same, he shall be deemed to have declined the same; and any person who, being at the passing of this act a member of the legislative council of Nova Scotia or New Brunswick, accepts a place in the senate, shall thereby vacate his seat in such legislative council.

128. Every member of the senate or house of commons of Canada shall, before taking his seat therein, take and subscribe before the governor-general or some person authorized by him, and every member of the legislative council or legislative assembly of any province shall, before taking his seat therein, take and subscribe before the lieutenant-governor of the province, or some person authorized by him, the oath of allegiance contained in the fifth schedule to this act; and every member of the senate of Canada and every member of the legislative council of Quebec shall also, before taking his seat therein, take and subscribe before the governor-general, or some person authorized by him, the declaration of qualification contained in the same schedule.

129. Except as otherwise provided by this act, all laws in force in Canada, Nova Scotia or New Brunswick at the union, and all courts of civil and criminal jurisdiction, and all legal commissions, powers, and authorities, and all officers, judicial, administrative and ministerial, existing therein at the union, shall continue, in Ontario, Quebec, Nova Scotia and New Brunswick, respectively, as if the union had not been made; subject, nevertheless (except with respect to such as are enacted by or exist under acts of the parliament of Great Britain or of the parliament of the United Kingdom of Great Britain and Ireland), to be repealed, abolished or altered by the parliament of Canada, or by the legislature of the respective province, according to the authority of the parliament or of that legislature under this act.

130. Until the parliament of Canada otherwise provides, all officers of the several provinces having duties to discharge in relation to matters other than those coming within the classes of subjects by this act assigned

exclusively to the legislatures of the provinces, shall be officers of Canada, and shall continue to discharge the duties of their respective offices under the same liabilities, responsibilities and penalties, as if the union had not been made.

131. Until the parliament of Canada otherwise provides, the governor-general in council may from time to time appoint such officers as the governor-general in council deems necessary or proper for the effectual execution of this act.

132. The parliament and government of Canada shall have all powers necessary or proper for performing the obligations of Canada or of any province thereof, as part of the British empire, towards foreign countries, arising under treaties between the empire and such foreign countries.

133. Either the English or the French language may be used by any person in the debates of the houses of the parliament of Canada and of the houses of the legislature of Quebec; and both those languages shall be used in the respective records and journals of those houses; and either of those languages may be used by any person or in any pleading or process in or issuing from any court of Canada established under this act, and in or from all or any of the courts of Quebec.

The acts of the parliament of Canada and of the legislature of Quebec shall be printed and published in both those languages.

#### ONTARIO AND QUEBEC.

134. Until the legislature of Ontario or of Quebec otherwise provides, the lieutenant-governors of Ontario and Quebec may each appoint, under the great seal of the province, the following officers, to hold office during pleasure, that is to say, — the attorney-general, the secretary and registrar of the province, the treasurer of the province, the commissioner of crown lands, and the commissioner of agriculture and public works, and in the case of Quebec, the solicitor-general; and may by order of the lieutenant-governor in council from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof, and may also appoint other and additional officers to hold office during pleasure, and may from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof.

135. Until the legislature of Ontario or Quebec otherwise provides,

all rights, powers, duties, functions, responsibilities or authorities at the passing of this act vested in or imposed on the attorney-general, solicitor-general, secretary and registrar of the province of Canada, minister of finance, commissioner of crown lands, commissioner of public works, and minister of agriculture and receiver-general, by any law, statute or ordinance of Upper Canada, Lower Canada or Canada, and not repugnant to this act, shall be vested in or imposed on any officer to be appointed by the lieutenant-governor for the discharge of the same or any of them; and the commissioner of agriculture and public works shall perform the duties and functions of the office of minister of agriculture at the passing of this act imposed by the law of the province of Canada as well as those of the commissioner of public works.

136. Until altered by the lieutenant-governor in council, the great seals of Ontario and Quebec respectively shall be the same, or of the same design, as those used in the provinces of Upper Canada and Lower Canada respectively before their union as the province of Canada.

137. The words "and from thence to the end of the then next ensuing session of the legislature," or words to the same effect used in any temporary act of the province of Canada not expired before the union, shall be construed to extend and apply to the next session of the parliament of Canada, if the subject matter of the act is within the powers of the same as defined by this act, or to the next sessions of the legislatures of Ontario and Quebec, respectively, if the subject matter of the act is within the powers of the same as defined by this act.

138. From and after the union the use of the words "Upper Canada" instead of "Ontario," or "Lower Canada" instead of "Quebec" in any deed, writ, process, pleading, document, matter or thing, shall not invalidate the same.

139. Any proclamation under the great seal of the province of Canada, issued before the union, to take effect at a time which is subsequent to the union, whether relating to that province, or to Upper Canada, or to Lower Canada, and the several matters and things therein proclaimed, shall be and continue of like force and effect as if the union had not been made.

140. Any proclamation which is authorized by any act of the legislature of the province of Canada to be issued under the great seal of the province of Canada, whether relating to that province or to Upper Canada or to Lower Canada, and which is not issued before the union may be issued by the lieutenant-governor of Ontario or of Quebec, as its subject matter requires, under the great seal thereof; and from and

after the issue of such proclamation the same and the several matters and things therein proclaimed shall be and continue of the like force and effect in Ontario or Quebec as if the union had not been made.

141. The penitentiary of the province of Canada shall, until the parliament of Canada otherwise provides, be and continue the penitentiary of Ontario and of Quebec.

142. The division and adjustment of the debts, credits, liabilities, properties and assets of Upper Canada and Lower Canada shall be referred to the arbitrament of three arbitrators, one chosen by the government of Ontario, one by the government of Quebec and one by the government of Canada; and the selection of the arbitrators shall not be made until the parliament of Canada and the legislatures of Ontario and Quebec have met; and the arbitrator chosen by the government of Canada shall not be a resident either in Ontario or in Quebec.

143. The governor-general in council may from time to time order that such and so many of the records, books and documents of the province of Canada as he thinks fit shall be appropriated and delivered either to Ontario or to Quebec, and the same shall thenceforth be the property of that province; and any copy thereof or extract therefrom, duly certified by the officer having charge of the original thereof, shall be admitted as evidence.

144. The lieutenant-governor of Quebec may from time to time by proclamation under the great seal of the province, to take effect from the day to be appointed therein, constitute townships in those parts of the province of Quebec in which townships are not then already constituted, and fix the metes and bounds thereof.

#### X. INTERCOLONIAL RAILWAY.

145. Inasmuch as the provinces of Canada, Nova Scotia and New Brunswick have joined in a declaration that the construction of the Intercolonial Railway is essential to the consolidation of the union of British North America, and to the assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that provision should be made for its immediate construction by the government of Canada: therefore, in order to give effect to that agreement, it shall be the duty of the government and parliament of Canada to provide for the commencement, within six months after the union, of a railway connecting the river St. Lawrence with the city of Halifax in Nova Scotia, and for the construction thereof without intermission, and the completion thereof with all practicable speed.

## XI. ADMISSION OF OTHER COLONIES.

146. It shall be lawful for the queen, by and with the advice of her majesty's most honourable privy council, on addresses from the houses of the parliament of Canada and from the houses of the respective legislatures of the colonies or provinces of New Foundland, Prince Edward Island and British Columbia to admit those colonies or provinces, or any of them, into the union, and on address from the houses of the parliament of Canada to admit Rupert's Land and the Northwestern territory, or either of them, into the union, on such terms and conditions in each case as are in the addresses expressed and as the queen thinks fit to approve, subject to the provisions of this act; and the provisions of any order in council in that behalf shall have effect as if they had been enacted by the parliament of the United Kingdom of Great Britain and Ireland.<sup>6</sup>

147. In case of the admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a representation in the senate of Canada of four members, and (notwithstanding anything in this act), in case of the admission of Newfoundland, the normal number of senators shall be seventy-six and their maximum number shall be eighty-two; but Prince Edward Island, when admitted, shall be deemed to be comprised in the third of the three divisions into which Canada is, in relation to the constitution of the senate, divided by this act, and accordingly, after the admission of Prince Edward Island, whether Newfoundland is admitted or not, the representation of Nova Scotia and New Brunswick in the senate shall, as vacancies occur, be reduced from twelve to ten members respectively, and the representation of each of those provinces shall not be increased at any time beyond ten, except under the provisions of this act, for the appointment of three or six additional senators under the direction of the queen.

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THE BRITISH NORTH AMERICA ACT, 1871.

[June 29, 1871]

**An Act respecting the establishment of Provinces in the Dominion of Canada.**

Whereas doubts have been entertained respecting the powers of the parliament of Canada to establish provinces in territories admitted, or

<sup>6</sup> The power to erect or to admit new provinces was extended by the British North America Act of 1871. see this page.

which may hereafter be admitted into the Dominion of Canada, and provide for the representation of such provinces in the said parliament, and it is expedient to remove such doubts, and to vest such powers in the said parliament:

Be it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same as follows:—

1. This act may be cited for all purposes as "The British North America Act, 1871."

2. The parliament of Canada may from time to time establish new provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may at the time of such establishment, make provision for the constitution and administration of any such province, and for the passing of laws for the peace, order and good government of such province, and for its representation in the said parliament.

3. The parliament of Canada may from time to time, with the consent of the legislature of any province of the said Dominion, increase, diminish or otherwise alter the limits of such province, upon such terms and conditions as may be agreed to by the said legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any province affected thereby.

4. The parliament of Canada may from time to time make provision for the administration, peace, order and good government of any territory not for the time being included in any province.

5. The following acts passed by the said parliament of Canada, and intituled respectively: "An act for the temporary government of Rupert's Land and the Northwestern Territory when united with Canada," and "An act to amend and continue the act thirty-two and thirty-three Victoria, chapter three, and to establish and provide for the government of the province of Manitoba," shall be and be deemed to have been valid and effectual for all purposes whatsoever from the date at which they respectively received the assent, in the queen's name, of the governor-general of the said Dominion of Canada.

6. Except as provided by the third section of this act, it shall not be competent for the parliament of Canada to alter the provisions of the last mentioned act of the said parliament, in so far as it relates to the

province of Manitoba, or of any other act hereafter establishing new provinces in the said Dominion, subject always to the right of the legislature of the province of Manitoba to alter from time to time the provisions of any law respecting the qualification of electors and members of the legislative assembly, and to make laws respecting elections in the said province.

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THE PARLIAMENT OF CANADA ACT, 1875.

[July 19, 1875]

An act to remove doubts with respect to the powers of the Parliament of Canada under section eighteen of the British North America Act, 1867.

Whereas by section eighteen of the British North America Act, 1867, it is provided as follows:

“The privileges, immunities and powers to be held, enjoyed and exercised by the senate and by the house of commons, and by the members thereof respectively, shall be such as are from time to time defined by act of parliament of Canada, but so that the same shall never exceed those at the passing of this act, held, enjoyed and exercised by the commons house of parliament of the United Kingdom of Great Britain and Ireland and by the members thereof.”

And whereas doubts have arisen with regard to the power of defining by an act of the parliament of Canada, in pursuance of the said section, the said privileges, powers, or immunities; and it is expedient to remove such doubts;

Be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:—

1. Section eighteen of the British North America Act, 1867, is hereby repealed without prejudice to anything done under that section, and the following section shall be substituted for the section so repealed:

The privileges, immunities and powers to be held, enjoyed and exercised by the senate and by the house of commons, and by the members thereof, respectively, shall be such as are from time to time defined by act of the parliament of Canada: but so that any act of the parliament of Canada defining such privileges, immunities and powers shall not confer any privileges, immunities or powers exceeding those at the pass-



ing of such act, held, enjoyed and exercised by the commons house of parliament of the United Kingdom of Great Britain and Ireland and by the members thereof.

2. The act of the parliament of Canada passed in the thirty-first year of the reign of her present majesty, chapter twenty-four, intituled "An act to provide for oaths to witnesses being administered in certain cases for the purposes of either house of parliament," shall be deemed to be valid, and to have been valid as from the date at which the royal assent was given thereto by the governor-general of the Dominion of Canada.

3. This act may be cited as "The Parliament of Canada Act, 1875."

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THE BRITISH NORTH AMERICA ACT, 1886.

[June 25, 1886.]

An Act respecting the representation in the Parliament of Canada of Territories which for the time being form part of the Dominion of Canada, but are not included in any Province.

Whereas it is expedient to empower the parliament of Canada to provide for the representation in the senate and house of commons of Canada, or either of them, of any territory which for the time being forms part of the Dominion of Canada, but is not included in any province:

Be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:—

1. The parliament of Canada may, from time to time, make provision for the representation in the senate and house of commons of Canada, or in either of them, of any territories which for the time being form part of the Dominion of Canada, but are not included in any province thereof.

2. Any act passed by the parliament of Canada before the passing of this act for the purpose mentioned in this act shall, if not disallowed by the queen, be, and shall be deemed to have been, valid and effectual from the date at which it received the assent, in her majesty's name, of the governor-general of Canada.

It is hereby declared that any act passed by the parliament of Canada, whether before or after the passing of this act, for the purpose mentioned in this act, or in the British North America Act, 1871, has effect, notwithstanding anything in the British North America Act, 1867, and the number of senators or the number of members of the house of commons specified in the last mentioned act is increased by the number of senators or of members, as the case may be, provided by any such act of the parliament of Canada, for the representation of any provinces or territories of Canada.

3. This act may be cited as the British North America Act, 1886.

This act and the British North America Act, 1867, and the British North America Act, 1871, shall be construed together, and may be cited together as the British North America Acts, 1867 to 1886.

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COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT.

[July 9, 1900.]

Whereas the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble federal commonwealth under the crown of the United Kingdom of Great Britain and Ireland, and under the constitution hereby established: and whereas it is expedient to provide for the admission into the Commonwealth of other Australasian colonies and possessions of the queen:

Be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

1. This act may be cited as the Commonwealth of Australia Constitution Act.

2. The provisions of this act referring to the queen shall extend to her majesty's heirs and successors in the sovereignty of the United Kingdom.

3. It shall be lawful for the queen, with the advice of the privy council, to declare by proclamation that, on and after a day therein appointed, not being later than one year after the passing of this act, the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, and also, if her majesty is satisfied that the people of Western Australia

have agreed thereto, of Western Australia, shall be united in a federal commonwealth under the name of the Commonwealth of Australia. But the queen may, at any time after the proclamation, appoint a governor-general for the Commonwealth.

4. The Commonwealth shall be established, and the constitution of the Commonwealth shall take effect, on and after the day so appointed. But the parliaments of the several colonies may at any time after the passing of this act make any such laws, to come into operation on the day so appointed, as they might have made if the constitution had taken effect at the passing of this act.

5. This act, and all laws made by the parliament of the Commonwealth under the constitution, shall be binding on the courts, judges, and people of every State, and of every part of the Commonwealth, notwithstanding anything in the laws of any State; and the laws of the Commonwealth shall be in force on all British ships, the queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth.

6. "The Commonwealth" shall mean the Commonwealth of Australia as established under this act.

"The States" shall mean such of the colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, Western Australia, and South Australia, including the Northern Territory of South Australia, as for the time being are parts of the Commonwealth, and such colonies or territories as may be admitted into or established by the Commonwealth as States; and each of such parts of the Commonwealth shall be called a "State."

"Original States" shall mean such States as are parts of the Commonwealth at its establishment.

7. The Federal Council of Australasia Act, 1885, is hereby repealed; but so as not to affect any laws passed by the federal council of Australasia and in force at the establishment of the Commonwealth.

Any such law may be repealed as to any State by the parliament of the Commonwealth, or as to any colony not being a State by the parliament thereof.

8. After the passing of this act the Colonial Boundaries Act, 1895, shall not apply to any colony which becomes a State of the Commonwealth; but the Commonwealth shall be taken to be a self-governing colony for the purposes of that act.

9. The constitution of the Commonwealth shall be as follows:

## THE CONSTITUTION.

This constitution is divided as follows:—

Chapter	I.	The Parliament:
Part	I.	General:
Part	II.	The Senate:
Part	III.	The House of Representatives:
Part	IV.	Both Houses of Parliament:
Part	V.	Powers of the Parliament:
Chapter	II.	The Executive Government:
Chapter	III.	The Judicature:
Chapter	IV.	Finance and Trade:
Chapter	V.	The States:
Chapter	VI.	New States:
Chapter	VII.	Miscellaneous:
Chapter	VIII.	Alteration of the Constitution:
		The Schedule.

## CHAPTER I. THE PARLIAMENT.

*Part I. General.*

1. The legislative power of the Commonwealth shall be vested in a federal parliament, which shall consist of the queen, a senate, and a house of representatives, and which is hereinafter called “the parliament,” or “the parliament of the Commonwealth.”

2. A governor-general appointed by the queen shall be her majesty's representative in the Commonwealth, and shall have and may exercise in the Commonwealth during the queen's pleasure, but subject to the constitution, such powers and functions of the queen as her majesty may be pleased to assign to him.

3. There shall be payable to the queen out of the consolidated revenue fund of the Commonwealth, for the salary of the governor-general, an annual sum which, until the parliament otherwise provides, shall be ten thousand pounds.

The salary of a governor-general shall not be altered during his continuance in office.

4. The provisions of this constitution relating to the governor-general extend and apply to the governor-general for the time being, or such person as the queen may appoint to administer the government of the Commonwealth; but no such person shall be entitled to receive any salary from the Commonwealth in respect of any other office during his administration of the government of the Commonwealth.

5. The governor-general may appoint such times for holding the sessions of the parliament as he thinks fit, and may also from time to time, by proclamation or otherwise, prorogue the parliament, and may in like manner dissolve the house of representatives.

After any general election the parliament shall be summoned to meet not later than thirty days after the day appointed for the return of the writs.

The parliament shall be summoned to meet not later than six months after the establishment of the Commonwealth.

6. There shall be a session of the parliament once at least in every year, so that twelve months shall not intervene between the last sitting of the parliament in one session and its first sitting in the next session.

#### *Part II. The Senate.*

7. The senate shall be composed of senators for each State, directly chosen by the people of the State, voting, until the parliament otherwise provides, as one electorate.

But until the parliament of the Commonwealth otherwise provides, the parliament of the State of Queensland, if that State be an original State, may make laws dividing the State into divisions and determining the number of senators to be chosen for each division, and in the absence of such provision the State shall be one electorate.

Until the parliament otherwise provides there shall be six senators for each original State. The parliament may make laws increasing or diminishing the number of senators for each State, but so that equal representation of the several original States shall be maintained and that no original State shall have less than six senators.

The senators shall be chosen for a term of six years, and the names of the senators chosen for each State shall be certified by the governor to the governor-general.

8. The qualification of electors of senators shall be in each State that which is prescribed by this constitution, or by the parliament, as the qualification for electors of members of the house of representatives; but in the choosing of senators each elector shall vote only once.

9. The parliament of the Commonwealth may make laws prescribing the method of choosing senators, but so that the method shall be uniform for all the States. Subject to any such law, the parliament of each State may make laws prescribing the method of choosing the senators for that State.

The parliament of a State may make laws for determining the times and places of elections of senators for the State.

10. Until the parliament otherwise provides, but subject to this constitution, the laws in force in each State, for the time being, relating to elections for the more numerous house of the parliament of the State shall, as nearly as practicable, apply to elections of senators for the State.

11. The senate may proceed to the despatch of business, notwithstanding the failure of any State to provide for its representation in the senate.

12. The governor of any State may cause writs to be issued for elections of senators for the State. In case of the dissolution of the senate the writs shall be issued within ten days from the proclamation of such dissolution.

13. As soon as may be after the senate first meets, and after each first meeting of the senate following a dissolution thereof, the senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable; and the places of the senators of the first class shall become vacant at the expiration of the third year, and the places of those of the second class at the expiration of the sixth year, from the beginning of their term of service; and afterwards the places of senators shall become vacant at the expiration of six years from the beginning of their term of service.

The election to fill vacant places shall be made in the year at the expiration of which the places are to become vacant.

For the purposes of this section the term of service of a senator shall be taken to begin on the first day of January following the day of his election, except in the cases of the first election and of the election next after any dissolution of the senate, when it shall be taken to begin on the first day of January preceding the day of his election.

14. Whenever the number of senators for a State is increased or diminished, the parliament of the Commonwealth may make such provision for the vacating of the places of senators for the State as it deems necessary to maintain regularity in the rotation.

15. If the place of a senator becomes vacant before the expiration of his term of service, the houses of parliament of the State for which he was chosen shall, sitting and voting together, choose a person to hold the place until the expiration of the term, or until the election of a successor as hereinafter provided, whichever first happens. But if the houses of parliament of the State are not in session at the time when the vacancy is notified, the governor of the State, with the advice of the

executive council thereof, may appoint a person to hold the place until the expiration of fourteen days after the beginning of the next session of the parliament of the State, or until the election of a successor, whichever first happens.

At the next general election of members of the house of representatives, or at the next election of senators for the State, whichever first happens, a successor shall, if the term has not then expired, be chosen to hold the place from the date of his election until the expiration of the term.

The name of any senator so chosen or appointed shall be certified by the governor of the State to the governor-general.

16. The qualifications of a senator shall be the same as those of a member of the house of representatives.

17. The senate shall, before proceeding to the despatch of any other business, choose a senator to be the president of the senate; and as often as the office of president becomes vacant the senate shall again choose a senator to be the president.

The president shall cease to hold his office if he ceases to be a senator. He may be removed from office by a vote of the senate, or he may resign his office or his seat by writing addressed to the governor-general.

18. Before or during any absence of the president, the senate may choose a senator to perform his duties in his absence.

19. A senator may, by writing addressed to the president, or to the governor-general if there is no president or, if the president is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

20. The place of a senator shall become vacant if for two consecutive months of any session of the parliament he, without the permission of the senate, fails to attend the senate.

21. Whenever a vacancy happens in the senate, the president, or if there is no president or if the president is absent from the Commonwealth, the governor-general shall notify the same to the governor of the State in the representation of which the vacancy has happened.

22. Until the parliament otherwise provides, the presence of at least one-third of the whole number of the senators shall be necessary to constitute a meeting of the senate for the exercise of its powers.

23. Questions arising in the senate shall be determined by a majority of votes; and each senator shall have one vote. The president shall in all cases be entitled to a vote; and when the votes are equal the question shall pass in the negative.

*Part. III. The House of Representatives.*

24. The house of representatives shall be composed of members directly chosen by the people of the Commonwealth, and the number of such members shall be, as nearly as practicable, twice the number of the senators.

The number of members chosen in the several States shall be in proportion to the respective numbers of their people, and shall, until the parliament otherwise provides, be determined, whenever necessary, in the following manner:—

- (i) A quota shall be ascertained by dividing the number of the people of the Commonwealth, as shown by the latest statistics of the Commonwealth, by twice the number of the senators:
- (ii) The number of members to be chosen in each State shall be determined by dividing the number of the people of the State, as shown by the latest statistics of the Commonwealth, by the quota; and if on such division there is a remainder greater than one-half of the quota, one more member shall be chosen in the State.

But notwithstanding anything in this section, five members at least shall be chosen in each original State.

25. For the purposes of the last section, if by the law of any State all persons of any race are disqualified from voting at elections for the more numerous house of the parliament of the State, then in reckoning the number of the people of the State or of the Commonwealth, persons of that race resident in that State shall not be counted.

26. Notwithstanding anything in section twenty-four, the number of members to be chosen in each State at the first election shall be as follows:

New South Wales,	twenty-three
Victoria,	twenty
Queensland,	eight
South Australia,	six
Tasmania,	five

Provided that if Western Australia is an original State, the number shall be as follows:

New South Wales,	twenty-six
Victoria,	twenty-three
Queensland,	nine
South Australia,	seven
Western Australia,	five
Tasmania,	five



27 Subject to this constitution, the parliament may make laws for increasing or diminishing the number of the members of the house of representatives.

28 Every house of representatives shall continue for three years from the first meeting of the house, and no longer, but may be sooner dissolved by the governor-general.

29 Until the parliament of the Commonwealth otherwise provides, the parliament of any State may make laws for determining the divisions in each State for which members of the house of representatives may be chosen, and the number of members to be chosen for each division. A division shall not be formed out of parts of different States.

In the absence of other provision, each State shall be one electorate.

30. Until the parliament otherwise provides, the qualification of electors of members of the house of representatives shall be in each State that which is prescribed by the law of the State as the qualification of electors of the more numerous house of parliament of the State; but in the choosing of members each elector shall vote only once.

31. Until the parliament otherwise provides, but subject to this constitution, the laws in force in each State for the time being relating to elections for the more numerous house of the parliament of the State shall, as nearly as practicable, apply to elections in the State of members of the house of representatives.

32. The governor-general in council may cause writs to be issued for general elections of members of the house of representatives.

After the first general election, the writs shall be issued within ten days from the expiry of a house of representatives, or from the proclamation of a dissolution thereof.

33. Whenever a vacancy happens in the house of representatives, the speaker shall issue his writ for the election of a new member, or if there is no speaker, or if he is absent from the Commonwealth, the governor-general in council may issue the writ.

34. Until the parliament otherwise provides, the qualifications of a member of the house of representatives shall be as follows:

- (i) He must be of the full age of twenty-one years, and must be an elector entitled to vote at the election of members of the house of representatives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen:

- (ii) He must be a subject of the queen, either natural-born or for at least five years naturalized under a law of the United Kingdom, or of a colony which has become or becomes a State, or of the Commonwealth or of a State.

35. The house of representatives shall, before proceeding to the despatch of any other business, choose a member to be the speaker of the house, and as often as the office of speaker becomes vacant the house shall again choose a member to be the speaker.

The speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the house, or he may resign his office or his seat by writing addressed to the governor-general.

36. Before or during any absence of the speaker, the house of representatives may choose a member to perform his duties in his absence.

37. A member may by writing addressed to the speaker, or to the governor-general if there is no speaker, or if the speaker is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

38. The place of a member shall become vacant if for two consecutive months of any session of the parliament he, without the permission of the house, fails to attend the house.

39. Until the parliament otherwise provides, the presence of at least one-third of the whole number of the members of the house of representatives shall be necessary to constitute a meeting of the house for the exercise of its powers.

40. Questions arising in the house of representatives shall be determined by a majority of votes other than that of the speaker. The speaker shall not vote unless the numbers are equal, and then he shall have a casting vote.

#### *Part IV. Both Houses of the Parliament.*

41. No adult person who has or acquires a right to vote at elections for the more numerous house of the parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either house of the parliament of the Commonwealth.

42. Every senator and every member of the house of representatives shall before taking his seat make and subscribe before the governor-general, or some person authorized by him, an oath or affirmation of allegiance in the form set forth in the schedule to this constitution.

43. A member of either house of the parliament shall be incapable of being chosen or of sitting as a member of the other house.

44. Any person who —

- (i) Is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power: or
- (ii) Is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer: or
- (iii) Is an undischarged bankrupt or insolvent: or
- (iv) Holds any office of profit under the crown, or any pension payable during the pleasure of the crown out of any of the revenues of the Commonwealth: or
- (v) Has any direct or indirect pecuniary interest in any agreement with the public service of the Commonwealth, otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons:

shall be incapable of being chosen or of sitting as a senator or a member of the house of representatives.

But sub-section iv does not apply to the office of any of the queen's ministers of state for the Commonwealth or of any of the queen's ministers for a State, or to the receipt of pay, half-pay, or a pension by any person as an officer or member of the queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

45. If a senator or member of the house of representatives —

- (i) Becomes subject to any of the disabilities mentioned in the last preceding section: or
- (ii) Takes the benefit, whether by assignment, composition, or otherwise, of any law relating to bankrupt or insolvent debtors: or
- (iii) Directly or indirectly takes or agrees to take any fee or honorarium for services rendered to the Commonwealth, or for services rendered in the parliament to any person or State:

his place shall thereupon become vacant.

46. Until the parliament otherwise provides, any person declared by this constitution to be incapable of sitting as a senator or as a member of the house of representatives shall, for every day on which he so sits,

be liable to pay the sum of one hundred pounds to any person who sues for it in any court of competent jurisdiction.

47. Until the parliament otherwise provides, any question respecting the qualification of a senator or of a member of the house of representatives, or respecting a vacancy in either house of the parliament, and any question of a disputed election to either house, shall be determined by the house in which the question arises.

48. Until the parliament otherwise provides, each senator and each member of the house of representatives shall receive an allowance of four hundred pounds a year, to be reckoned from the day on which he takes his seat.

49. The powers, privileges, and immunities of the senate and of the house of representatives, and of the members and the committees of each house, shall be such as are declared by the parliament, and until declared shall be those of the commons house of parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.

50. Each house of the parliament may make rules and orders with respect to:—

- (i) The mode in which its powers, privileges, and immunities may be exercised and upheld:
- (ii) The order and conduct of its business and proceedings either separately or jointly with the other house.

#### *Part V. Powers of the Parliament.*

51. The parliament shall, subject to this constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:—

- (i) Trade and commerce with other countries, and among the States:
- (ii) Taxation; but so as not to discriminate between States or parts of States:
- (iii) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth:
- (iv) Borrowing money on the public credit of the Commonwealth:
- (v) Postal, telegraphic, telephonic, and other like services:
- (vi) The naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth:
- (vii) Light-houses, light-ships, beacons and buoys:

- (viii) Astronomical and meteorological observations:
- (ix) Quarantine:
- (x) Fisheries in Australian waters beyond territorial limits:
- (xi) Census and statistics:
- (xii) Currency, coinage, and legal tender:
- (xiii) Banking, other than State banking; also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money:
- (xiv) Insurance, other than State insurance; also State insurance extending beyond the limits of the State concerned:
- (xv) Weights and measures:
- (xvi) Bills of exchange and promissory notes:
- (xvii) Bankruptcy and insolvency:
- (xviii) Copyrights, patents of inventions and designs, and trade marks:
- (xix) Naturalization and aliens:
- (xx) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth:
- (xxi) Marriage:
- (xxii) Divorce and matrimonial causes; and in relation thereto, parental rights, and the custody and guardianship of infants:
- (xxiii) Invalid and old-age pensions:
- (xxiv) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States:
- (xxv) The recognition throughout the Commonwealth of the laws, the public acts and records, and the judicial proceedings of the States:
- (xxvi) The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws:
- (xxvii) Immigration and emigration:
- (xxviii) The influx of criminals:
- (xxix) External affairs:
- (xxx) The relations of the Commonwealth with the islands of the Pacific:
- (xxxi) The acquisition of property on just terms from any State or person for any purpose in respect of which the parliament has power to make laws:
- (xxxii) The control of railways with respect to transport for the naval and military purposes of the Commonwealth:

- (xxxiii) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State:
- (xxxiv) Railway construction and extension in any State with the consent of that State:
- (xxxv) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State:
- (xxxvi) Matters in respect of which this constitution makes provision until the parliament otherwise provides:
- (xxxvii) Matters referred to the parliament of the Commonwealth by the parliament or parliaments of any State or States, but so that the law shall extend only to States by whose parliaments the matter is referred, or which afterwards adopt the law:
- (xxxviii) The exercise within the Commonwealth, at the request or with the concurrence of the parliaments of all the States directly concerned, of any power which can at the establishment of this constitution be exercised only by the parliament of the United Kingdom or by the federal council of Australasia:
- (xxxix) Matters incidental to the execution of any power vested by this constitution in the parliament or in either house thereof, or in the government of the Commonwealth, or in the federal judicature, or in any department or officer of the Commonwealth.

52. The parliament shall, subject to this constitution, have exclusive power to make laws for the peace, order, and good government of the Commonwealth with respect to:—

- (i) The seat of government of the Commonwealth, and all places acquired by the Commonwealth for public purposes:
- (ii) Matters relating to any department of the public service the control of which is by this constitution transferred to the executive government of the Commonwealth:
- (iii) Other matters declared by this constitution to be within the exclusive power of the parliament.

53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licenses, or fees for services under the proposed law.

The senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the government.

The senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The senate may at any stage return to the house of representatives any proposed law which the senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the house of representatives may if it thinks fit make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the senate shall have equal power with the house of representatives in respect of all proposed laws.

54. The proposed law which appropriates revenue or moneys for the ordinary annual services of the government shall deal only with such appropriation.

55. Laws imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect.

Laws imposing taxation, except laws imposing duties of customs or of excise, shall deal with one subject of taxation only; but laws imposing duties of customs shall deal with duties of customs only, and laws imposing duties of excise shall deal with duties of excise only.

56. A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the governor-general to the house in which the proposal originated.

57. If the house of representatives passes any proposed law and the senate rejects or fails to pass it, or passes it with amendments to which the house representatives will not agree, and if after an interval of three months the house of representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the senate, and the senate rejects or fails to pass it, or passes it with amendments to which the house of representatives will not agree, the governor-general may dissolve the senate and the house of representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the house of representatives by effluxion of time.

If after such dissolution the house of representatives again passes the proposed law with or without any amendments which have been

made, suggested, or agreed to by the senate, and the senate rejects or fails to pass it, or passes it with amendments to which the house of representatives will not agree, the governor-general may convene a joint sitting of the members of the senate and of the house of representatives.

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the house of representatives, and upon amendments, if any, which have been made therein by one house and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of members of the senate and house of representatives shall be taken to have been carried, and if the proposed law, with the amendments, if any, so carried is affirmed by an absolute majority of the total number of the members of the senate and house of representatives, it shall be taken to have been duly passed by both houses of the parliament, and shall be presented to the governor-general for the queen's assent.

58. When a proposed law, passed by both houses of the parliament, is presented to the governor-general for the queen's assent, he shall declare, according to his discretion, but subject to this constitution, that he assents in the queen's name, or that he withholds assent, or that he reserves the law for the queen's pleasure.

The governor-general may return to the house in which it originated any proposed law so presented to him, and may transmit therewith any amendments which he may recommend and the houses may deal with the recommendation.

59. The queen may disallow any law within one year from the governor-general's assent, and such disallowance on being made known by the governor-general by speech or message to each of the houses of the parliament, or by proclamation, shall annul the law from the day when the disallowance is so made known.

60. A proposed law reserved for the queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the governor-general for the queen's assent the governor-general makes known, by speech or message to each of the houses of the parliament, or by proclamation, that it has received the queen's assent.

## CHAPTER II. THE EXECUTIVE GOVERNMENT.

61. The executive power of the Commonwealth is vested in the queen, and is exercisable by the governor-general as the queen's representative, and extends to the execution and maintenance of this constitution, and of the laws of the Commonwealth.



62. There shall be a federal executive council to advise the governor-general in the government of the Commonwealth, and the members of the council shall be chosen and summoned by the governor-general and sworn as executive councillors, and shall hold office during his pleasure.

63. The provisions of this constitution referring to the governor-general in council shall be construed as referring to the governor-general acting with the advice of the federal executive council.

64. The governor-general may appoint officers to administer such departments of state of the Commonwealth as the governor-general in council may establish.

Such officers shall hold office during the pleasure of the governor-general. They shall be members of the federal executive council and shall be the queen's ministers of state for the Commonwealth.

After the first general election no minister of state shall hold office for a longer period than three months unless he is or becomes a senator or a member of the house of representatives.

65. Until the parliament otherwise provides, the ministers of state shall not exceed seven in number, and shall hold such offices as the parliament prescribes or, in the absence of provision, as the governor-general directs.

66. There shall be payable to the queen, out of the consolidated revenue fund of the Commonwealth, for the salaries of the ministers of state, an annual sum which, until the parliament otherwise provides, shall not exceed twelve thousand pounds a year.

67. Until the parliament otherwise provides, the appointment and removal of all other officers of the executive government of the Commonwealth shall be vested in the governor-general in council, unless the appointment is delegated by the governor-general in council or by a law of the Commonwealth to some other authority.

68. The command in chief of the naval and military forces of the Commonwealth is vested in the governor-general as the queen's representative.

69. On a date or dates to be proclaimed by the governor-general after the establishment of the Commonwealth the following departments of the public service in each State shall become transferred to the Commonwealth:—

Posts, telegraphs, and telephones:

Naval and military defence:

Light-houses, light-ships, beacons, and buoys:

Quarantine.

But the departments of customs and of excise in each State shall become transferred to the Commonwealth on its establishment.

70. In respect of matters which, under this constitution, pass to the executive government of the Commonwealth, all powers and functions which at the establishment of the Commonwealth are vested in the governor of a colony, or in the governor of a colony with the advice of his executive council, or in any authority of a colony shall vest in the governor-general, or in the governor-general in council, or in the authority exercising similar powers under the Commonwealth, as the case requires.

### CHAPTER III. THE JUDICATURE.

71. The judicial power of the Commonwealth shall be vested in a federal supreme court, to be called the high court of Australia, and in such other federal courts as the parliament creates, and in such other courts as it invests with federal jurisdiction. The high court shall consist of a chief justice, and so many other justices, not less than two, as the parliament prescribes.

72. The justices of the high court and of the other courts created by the parliament —

- (i) Shall be appointed by the governor-general in council:
- (ii) Shall not be removed except by the governor-general in council, on an address from both houses of the parliament in the same session, praying for such removal on the ground of proved misbehavior or incapacity:
- (iii) Shall receive such remuneration as the parliament may fix; but the remuneration shall not be diminished during their continuance in office.

73. The high court shall have jurisdiction, with such exceptions and subject to such regulations as the parliament prescribes, to hear and determine appeals from all judgments, decrees, orders, and sentences —

- (i) Of any justice or justices exercising the original jurisdiction of the high court:
- (ii) Of any other federal court, or court exercising federal jurisdiction; or of the supreme court of any State, or of any other court of any State from which at the establishment of the Commonwealth an appeal lies to the queen in council:
- (iii) Of the inter-state commission, but as to questions of law only: and the judgment of the high court in all such cases shall be final and conclusive.

But no exception or regulation prescribed by the parliament shall prevent the high court from hearing and determining any appeal from the supreme court of a state in any matter in which at the establishment of the Commonwealth an appeal lies from such supreme court to the queen in council.

Until the parliament otherwise provides, the conditions of and restrictions on appeals to the queen in council from the supreme courts of the several States shall be applicable to appeals from them to the high court.

74. No appeal shall be permitted to the queen in council from a decision of the high court upon any question, howsoever arising, as to the limits inter se of the constitutional powers of the Commonwealth and those of any State or States, or as to the limits inter se of the constitutional powers of any two or more States, unless the high court shall certify that the question is one which ought to be determined by her majesty in council.

The high court may so certify if satisfied that for any special reason the certificate should be granted, and thereupon an appeal shall lie to her majesty in council on the question without further leave.

Except as provided in this section, this constitution shall not impair any right which the queen may be pleased to exercise by virtue of her royal prerogative to grant special leave of appeal from the high court to her majesty in council. The parliament may make laws limiting the matters in which such leave may be asked, but proposed laws containing any such limitations shall be reserved by the governor-general for her majesty's pleasure.

75. In all matters —

- (i) Arising under any treaty:
- (ii) Affecting consuls or other representatives of other countries:
- (iii) In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth is a party:
- (iv) Between States, or between residents of different States, or between a State and a resident of another State:

In which a writ of mandamus or prohibition or an injunction is sought against an officer of the Commonwealth:

Court shall have original jurisdiction.

Parliament may make laws conferring original jurisdiction in any matter —

or this constitution, or involving its interpretation:

- (ii) Arising under any laws made by the parliament:
- (iii) Of admiralty and maritime jurisdiction:
- (iv) Relating to the same subject-matter claimed under the laws of different States.

77. With respect to any of the matters mentioned in the last two sections the parliament may make laws —

- (i) Defining the jurisdiction of any federal court other than the high court:
- (ii) Defining the extent to which the jurisdiction of any federal court shall be exclusive of that which belongs to or is invested in the courts of the States:
- (iii) Investing any court of a State with federal jurisdiction.

78. The parliament may make laws conferring rights to proceed against the Commonwealth or a State in respect of matters within the limits of the judicial power.

79. The federal jurisdiction of any court may be exercised by such number of judges as the parliament prescribes.

80. The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State the trial shall be held at such place or places as the parliament prescribes.

#### CHAPTER IV. FINANCE AND TRADE.

81. All revenues or moneys raised or received by the executive government of the Commonwealth shall form one consolidated revenue fund, to be appropriated for the purposes of the Commonwealth in the manner and subject to the charges and liabilities imposed by this constitution.

82. The costs, charges, and expenses incident to the collection, management, and receipt of the consolidated revenue fund shall form the first charge thereon; and the revenue of the Commonwealth shall in the first instance be applied to the payment of the expenditure of the Commonwealth.

83. No money shall be drawn from the treasury of the Commonwealth except under appropriation made by law.

But until the expiration of one month after the first meeting of the parliament the governor-general in council may draw from the treasury and expend such moneys as may be necessary for the maintenance of any department transferred to the Commonwealth and for the holding of the first elections for the parliament.

84. When any department of the public service of a State becomes transferred to the Commonwealth, all officers of the department shall become subject to the control of the executive government of the Commonwealth.

Any such officer who is not retained in the service of the Commonwealth shall, unless he is appointed to some other office of equal emolument in the public service of the State, be entitled to receive from the State any pension, gratuity, or other compensation payable under the law of the State on the abolition of his office.

Any such officer who is retained in the service of the Commonwealth shall preserve all his existing and accruing rights, and shall be entitled to retire from office at the time, and on the pension or retiring allowance which would be permitted by the law of the State if his service with the Commonwealth were a continuation of his service with the State. Such pension or retiring allowance shall be paid to him by the Commonwealth; but the State shall pay to the Commonwealth a part thereof, to be calculated on the proportion which his term of service with the State bears to his whole term of service, and for the purpose of the calculation his salary shall be taken to be that paid to him by the State at the time of the transfer.

Any officer who is, at the establishment of the Commonwealth, in the public service of a State, and who is, by consent of the governor of the State, with the advice of the executive council thereof, transferred to the public service of the Commonwealth, shall have the same rights as if he had been an officer of a department transferred to the Commonwealth and were retained in the service of the Commonwealth.

85. When any department of the public service of a State is transferred to the Commonwealth —

- (i) All property of the State, of any kind, used exclusively in connexion with the department, shall become vested in the Commonwealth; but, in the case of the departments controlling customs and excise and bounties, for such time only as the governor-general in council may declare to be necessary:
- (ii) The Commonwealth may acquire any property of the State, of any kind, used, but not exclusively used, in connexion with the department; the value thereof shall, if no agreement can be made, be ascertained in, as nearly as may be, the manner in which the value of land, or of an interest in land, taken by the State for public purposes is ascertained under the law of the State in force at the establishment of the Commonwealth:

- (iii) The Commonwealth shall compensate the State for the value of any property passing to the Commonwealth under this section; if no agreement can be made as to the mode of compensation, it shall be determined under laws to be made by the parliament:
- (iv) The Commonwealth shall, at the date of the transfer, assume the current obligations of the State in respect of the department transferred.

86. On the establishment of the Commonwealth, the collection and control of duties of customs and of excise, and the control of the payment of bounties, shall pass to the executive government of the Commonwealth.

87. During a period of ten years after the establishment of the Commonwealth and thereafter until the parliament otherwise provides, of the net revenue of the Commonwealth from duties of customs and of excise not more than one-fourth shall be applied annually by the Commonwealth towards its expenditure.

The balance shall, in accordance with this constitution, be paid to the several States, or applied towards the payment of interest on debts of the several States taken over by the Commonwealth.

88. Uniform duties of customs shall be imposed within two years after the establishment of the Commonwealth.

89. Until the imposition of uniform duties of customs:—

- (i) The Commonwealth shall credit to each State the revenues collected therein by the Commonwealth.
- (ii) The Commonwealth shall debit to each State —
  - (a) the expenditure therein of the Commonwealth incurred solely for the maintenance or continuance, as at the time of transfer, of any department transferred from the State to the Commonwealth;
  - (b) the proportion of the State, according to the number of its people, in the other expenditure of the Commonwealth.
- (iii) The Commonwealth shall pay to each State month by month the balance (if any) in favor of the State.

90. On the imposition of uniform duties of customs the power of the parliament to impose duties of customs and of excise, and to grant bounties on the production or export of goods, shall become exclusive.

On the imposition of uniform duties of customs all laws of the several States imposing duties of customs or excise, or offering bounties on the production or export of goods, shall cease to have effect; but any grant of or agreement for any such bounty lawfully made by or under the

authority of the government of any State shall be taken to be good if made before the thirtieth day of June, one thousand eight hundred and ninety-eight, and not otherwise.

91. Nothing in this constitution prohibits a State from granting any aid to or bounty on mining for gold, silver, or other metals, nor from granting, with the consent of both houses of the parliament of the Commonwealth expressed by resolution, any aid to or bounty on the production or export of goods.

92. On the imposition of uniform duties of customs, trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.

But notwithstanding anything in this constitution, goods imported before the imposition of uniform duties of customs into any State, or into any colony which, whilst the goods remain therein, becomes a State, shall, on thence passing into another State within two years after the imposition of such duties, be liable to any duty chargeable on the importation of such goods into the Commonwealth, less any duty paid in respect of the goods on their importation.

93. During the first five years after the imposition of uniform duties of customs, and thereafter until the Parliament otherwise provides —

- (i) The duties of customs chargeable on goods imported into a State and afterwards passing into another State for consumption, and the duties of excise paid on goods produced or manufactured in a State and afterwards passing into another State for consumption, shall be taken to have been collected not in the former but in the latter State.
- (ii) Subject to the last sub-section, the Commonwealth shall credit revenue, debit expenditure, and pay balances to the several States as prescribed for the period preceding the imposition of uniform duties of customs.

94. After five years from the imposition of uniform duties of customs, the parliament may provide, on such basis as it deems fair, for the monthly payment to the several States of all surplus revenue of the Commonwealth.

95. Notwithstanding anything in this constitution, the parliament of the State of Western Australia, if that State be an original State, may during the first five years after the imposition of uniform duties of customs, impose duties of customs on goods passing into that State, and not originally imported from beyond the limits of the Commonwealth; and such duties shall be collected by the Commonwealth.

But any duty so imposed on any goods shall not exceed during the first of such years the duty chargeable on goods under the law of Western Australia in force at the imposition of uniform duties, and shall not exceed during the second, third, fourth, and fifth of such years respectively, four-fifths, three-fifths, two-fifths, and one-fifth of such latter duty, and all duties imposed under this section shall cease at the expiration of the fifth year after the imposition of uniform duties.

If at any time during the five years the duty on any goods under this section is higher than the duty imposed by the Commonwealth on the importation of the like goods, then such higher duty shall be collected on the goods when imported into Western Australia from beyond the limits of the Commonwealth.

96. During a period of ten years after the establishment of the Commonwealth and thereafter until the parliament otherwise provides, the parliament may grant financial assistance to any State on such terms and conditions as the parliament thinks fit.

97. Until the parliament otherwise provides, the laws in force in any colony which has become or becomes a State with respect to the receipt of revenue and the expenditure of money on account of the government of the Colony, and the review and audit of such receipt and expenditure, shall apply to the receipt of revenue and the expenditure of money on account of the Commonwealth in the State in the same manner as if the Commonwealth, or the government, or an officer of the Commonwealth, were mentioned whenever the colony, or the government, or an officer of the Colony is mentioned.

98. The power of the parliament to make laws with respect to trade and commerce extends to navigation and shipping, and to railways the property of any State.

99. The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof.

100. The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.

101. There shall be an inter-state commission, with such powers of adjudication and administration as the parliament deems necessary for the execution and maintenance, within the Commonwealth, of the provisions of this constitution relating to trade and commerce, and of all laws made thereunder.



102. The parliament may by any law with respect to trade or commerce forbid, as to railways, any preference or discrimination by any State, or by any authority constituted under a State, if such preference or discrimination is undue and unreasonable, or unjust to any State; due regard being had to the financial responsibilities incurred by any State in connexion with the construction and maintenance of its railways. But no preference or discrimination shall, within the meaning of this section, be taken to be undue and unreasonable, or unjust to any State, unless so adjudged by the inter-state commission.

103. The members of the inter-state commission —

- (i) Shall be appointed by the governor-general in council:
- (ii) Shall hold office for seven years, but may be removed within that time by the governor-general in council, on an address from both houses of the parliament in the same session praying for such removal on the ground of proved misbehaviour or incapacity:
- (iii) Shall receive such remuneration as the parliament may fix; but such remuneration shall not be diminished during their continuance in office.

104. Nothing in this constitution shall render unlawful any rate for the carriage of goods upon a railway, the property of a State, if the rate is deemed by the inter-state commission to be necessary for the development of the territory of the State, and if the rate applies equally to goods within the State and to goods passing into the State from other States.

105. The parliament may take over from the States their public debts as existing at the establishment of the Commonwealth, or a proportion thereof according to the respective numbers of their people as shown by the latest statistics of the Commonwealth, and may convert, renew, or consolidate such debts, or any part thereof; and the States shall indemnify the Commonwealth in respect of the debts taken over, and thereafter the interest payable in respect of the debts shall be deducted and retained from the portions of the surplus revenue of the Commonwealth payable to the several States, or if such surplus is insufficient, or if there is no surplus, then the deficiency or the whole amount shall be paid by the several States.

#### CHAPTER V. THE STATES.

106. The constitution of each State of the Commonwealth shall, subject to this constitution, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the constitution of the State.

107. Every power of the parliament of a colony which has become or becomes a State, shall, unless it is by this constitution exclusively vested in the parliament of the Commonwealth or withdrawn from the parliament of the State, continue, as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be.

108. Every law in force in a colony which has become or becomes a State, and relating to any matter within the powers of the parliament of the Commonwealth, shall, subject to this constitution, continue in force in the State; and, until provision is made in that behalf by the parliament of the Commonwealth, the parliament of the State shall have such powers of alteration and of repeal in respect of any such law as the parliament of the colony had until the colony became a State.

109. When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

110. The provisions of this constitution relating to the governor of a State extend and apply to the governor for the time being of the State, or other chief executive officer or administrator of the government of the State.

111. The parliament of a State may surrender any part of the State to the Commonwealth; and upon such surrender, and the acceptance thereof by the Commonwealth, such part of the State shall become subject to the exclusive jurisdiction of the Commonwealth.

112. After uniform duties of customs have been imposed, a State may levy on imports or exports, or on goods passing into or out of the State, such charges as may be necessary for executing the inspection laws of the State; but the net produce of all charges so levied shall be for the use of the Commonwealth; and any such inspection laws may be annulled by the parliament of the Commonwealth.

113. All fermented, distilled, or other intoxicating liquids passing into any State or remaining therein for use, consumption, sale, or storage, shall be subject to the laws of the State as if such liquids had been produced in the State.

114. A State shall not, without the consent of the parliament of the Commonwealth, raise or maintain any naval or military force, or impose any tax on property of any kind belonging to the Commonwealth, nor shall the Commonwealth impose any tax on property of any kind belonging to a State.

115. A State shall not coin money, nor make anything but gold and silver coin a legal tender in payment of debts.

116. The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

117. A subject of the queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the queen resident in such other State.

118. Full faith and credit shall be given, throughout the Commonwealth, to the laws, the public acts and records, and the judicial proceedings of every State.

119. The Commonwealth shall protect every State against invasion and, on the application of the executive government of the State, against domestic violence.

120. Every State shall make provision for the detention in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and for the punishment of persons convicted of such offences, and the parliament of the Commonwealth may make laws to give effect to this provision.

#### CHAPTER VI. NEW STATES.

121. The parliament may admit to the Commonwealth or establish new States, and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either house of the parliament, as it thinks fit.

122. The parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either house of the parliament to the extent and on the terms which it thinks fit.

123. The parliament of the Commonwealth may, with the consent of the parliament of a State, and the approval of the majority of the electors of the State voting upon the question, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed upon, and may, with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected.

124. A new State may be formed by separation of territory from a State, but only with the consent of the parliament thereof, and a new State may be formed by the union of two or more States or parts of States, but only with the consent of the parliaments of the States affected.

#### CHAPTER VII. MISCELLANEOUS.

125. The seat of government of the Commonwealth shall be determined by the parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth, and shall be vested in and belong to the Commonwealth, and shall be in the State of New South Wales, and be distant not less than one hundred miles from Sydney.

Such territory shall contain an area of not less than one hundred square miles, and such portion thereof as shall consist of crown lands shall be granted to the Commonwealth without any payment therefor.

The parliament shall sit at Melbourne until it meet at the seat of government.

126. The queen may authorize the governor-general to appoint any person, or any persons jointly or severally, to be his deputy or deputies within any part of the Commonwealth, and in that capacity to exercise during the pleasure of the governor-general such powers and functions of the governor-general as he thinks fit to assign to such deputy or deputies, subject to any limitations expressed or directions given by the queen; but the appointment of such deputy or deputies shall not affect the exercise by the governor-general himself of any power or function.

127. In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted.

#### CHAPTER VIII. ALTERATION OF THE CONSTITUTION.

128. This constitution shall not be altered except in the following manner:—

The proposed law for the alteration thereof must be passed by an absolute majority of each house of the parliament, and not less than two nor more than six months after its passage through both houses the proposed law shall be submitted in each State to the electors qualified to vote for the election of members of the house of representatives.

But if either house passes any such proposed law by an absolute majority, and the other house rejects or fails to pass it or passes it with any amendment to which the first-mentioned house will not agree, and if

after an interval of three months the first-mentioned house in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other house, and such other house rejects or fails to pass it or passes it with any amendment to which the first-mentioned house will not agree, the governor-general may submit the proposed law as last proposed by the first-mentioned house, and either with or without any amendments subsequently agreed to by both houses, to the electors in each State qualified to vote for the election of the house of representatives.

When a proposed law is submitted to the electors the vote shall be taken in such manner as the parliament prescribes. But until the qualification of electors of members of the house of representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails.

And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the governor-general for the queen's assent.

No alteration diminishing the proportionate representation of any State in either house of the parliament, or the minimum number of representatives of a State in the house of representatives, or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions of the constitution in relation thereto shall become law unless the majority of the electors voting in that State approve the proposed law.

#### SCHEDULE.

##### *Oath.*

I, A. B., do swear that I will be faithful and bear true allegiance to her majesty queen Victoria, her heirs and successors according to law. So help me God!

##### *Affirmation.*

I, A. B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to her majesty queen Victoria, her heirs and successors according to law.

NOTE. — The name of the king or queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time.

REGULATIONS GOVERNING APPOINTMENTS AND PROMOTIONS IN THE DIPLO-  
MATIC SERVICE AND FOR THE IMPROVEMENT OF THE PERSONNEL OF THE  
DEPARTMENT OF STATE.

[Executive Order No. 1143.]

Whereas, The Congress, by Section 1753 of the Revised Statutes of the United States has provided as follows:—

The President is authorized to prescribe such regulations for the admission of persons into the civil service of the United States as may best promote the efficiency thereof, and ascertain the fitness of each candidate in respect to age, health, character, knowledge, and ability for the branch of service into which he seeks to enter; and for this purpose he may employ suitable persons to conduct such inquiries, and may prescribe their duties, and establish regulations for the conduct of persons who may receive appointments in the civil service.

And, Whereas, it is deemed best for the public interest to extend to the diplomatic service the aforesaid provision of the Revised Statutes and the general principles embodied in the Civil Service Act of January 16th, 1883;—

The Secretary of State is hereby directed to report from time to time to the President, along with his recommendations, the names of those secretaries of the higher grades in the diplomatic service who by reason of efficient service have demonstrated special capacity for promotion to be chiefs of mission.

There shall be kept a careful efficiency record of every officer of the diplomatic service, in order that there may be no promotion except upon well established efficiency as shown in the service, and that retention in the service may be conditioned upon the officers' maintaining a degree of efficiency well up to the average high standard which the interests of the service demand.

Initial appointments from outside the service to secretaryships in the diplomatic service shall be only to the Classes of Third Secretary of Embassy, or, in case of higher existent vacancies, of Second Secretary of Legation, or of Secretary of Legation at such post as has assigned to it but one secretary. Vacancies in secretaryships of higher classes shall be filled by promotion from the lower grades of the service, based upon efficiency and ability as shown in the service.

To make it more practicable to extend to the appointment, promotion, transfer, or retention of secretaries in the diplomatic service the civil service principle of promotion on the basis of efficiency as shown in the

service, and in order that the action of the Department may be understood by the officers concerned, all secretaryships in the diplomatic service shall be graded according to the importance, volume, difficulty, or other aspects of the work done by each mission in proportion to the number of men allotted to it, and this classification shall be made known to the members of the service.

A person separated from a secretaryship in the diplomatic service without delinquency or misconduct at his own request in writing may, within a period of one year from the date of such separation, be reinstated in the grade from which he was separated, provided he shall have been originally appointed after the prescribed examination for that grade. In the event, however, that such separation shall be for the purpose of undertaking other work under the Department of State, the limitation of one year for eligibility for reinstatement shall not hold. This rule shall be applicable as regards reinstatements to the consular service and also to the Department of State when transfer shall have been to another branch of the foreign service.

The Assistant Secretary of State, the Solicitor for the Department of State, the Chief of the Diplomatic Bureau, and the Chief of the Bureau of Appointments, and the Chief Examiner of the Civil Service Commission or some person whom the Commission shall designate, or such persons as may be designated to serve in their stead, are hereby constituted a Board whose duty it shall be to determine the qualifications of persons designated by the President for examination to determine their fitness for possible appointment as secretaries of embassy or legation.

The examination herein provided for shall be held in Washington at such times as the needs of the service require. Candidates will be given reasonable notice to attend, and no person shall be designated to take the examination within thirty days of the time set therefor.

The examinations shall be both oral and in writing and shall include the following subjects:—international law, diplomatic usage, and a knowledge of at least one modern language other than English, to wit, French, Spanish, or German; also the natural, industrial and commercial resources and the commerce of the United States, especially with reference to the possibilities of increasing and extending the trade of the United States with foreign countries; American history, government and institutions; and the modern history since 1850 of Europe, Latin America and the Far East. The object of the oral examination shall also be to determine the candidate's alertness, general contemporary information, and natural fitness for the service, including mental, moral,

and physical qualifications, character, address, and general education and good command of English. In this part of the examination the applications previously filed will be given due weight by the Board of Examiners. In the determination of the final rating, the written and oral ratings shall be of equal weight. A physical examination shall also be included as supplemental.

Examination papers shall be rated on a scale of 100, and no person with a general rating of less than 80 shall be certified as eligible.

No person shall be certified as eligible who is under twenty-one or over fifty years of age, or who is not a citizen of the United States, or who is not of good character and habits and physically, mentally, and temperamentally qualified for the proper performance of diplomatic work, or who has not been specially designated by the President for appointment to the diplomatic service subject to examination and subject to the occurrence of an appropriate vacancy.

Upon the conclusion of the examinations, the names of the candidates who shall have attained upon the whole examination the required mark will be certified by the Board to the Secretary of State as eligible for appointment.

The names of candidates will remain on the eligible list for two years, except in the case of such candidates as shall within that period be appointed or shall withdraw their names. Names which have been on the eligible list for two years will be dropped therefrom and the candidates concerned will not again be eligible for appointment unless upon fresh application, designation anew for examination, and the successful passing of such second examination.

Applicants for appointment who are designated to take an examination and who fail to report therefor, shall not be entitled to take a subsequent examination unless they shall have been specifically designated to take such subsequent examination.

In designations for appointment subject to examination and in appointments after examination, due regard will be had to the rule, that as between candidates of equal merit, appointments should be made so as to tend to secure proportional representation of all the States and Territories in the diplomatic service; and neither in the designation for examination or certification or appointment after examination will the political affiliations of the candidates be considered.

The Board of Examiners is authorized to issue such notices and to make all such rules as it may deem necessary to accomplish the object of this regulation.



Transfers from one branch of the foreign service to another shall not occur except upon designation by the President for examination and the successful passing of the examination prescribed for the service to which such transfer is made. Unless the exigencies of the service imperatively demand it, such person to be transferred shall not have preference in designation for the taking of the examination or in appointment from the eligible list, but shall follow the course of procedure prescribed for all applicants for appointment to the service which he desires to enter. To persons employed in the Department of State at salaries of eighteen hundred dollars or more, the preceding rule shall not apply and they may be appointed, on the basis of ability and efficiency, to any grade of the diplomatic service.

The Secretary of State may, as provided by Rule III of the present Civil Service Rules, request the Civil Service Commission to hold special examinations for the position of clerk of class two or above in the Department of State, such examination to follow generally and so far as the Secretary of State shall deem practicable, the lines of the present foreign service examinations.

In the case of promotions in the Department of State to the grades of clerk of class two or above, the Secretary of State may require the passing of an examination in the general nature of the present diplomatic or consular service examinations.

With further reference to the matter of promotions in the Department of State, the Secretary of State is directed to cause to be kept, as a guide in determining the promotion or retention of the personnel, a careful record of the efficiency of each clerk in the Department.

WM. H. TAFT.

THE WHITE HOUSE,  
November 26, 1909.

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IDENTIC CIRCULAR NOTE OF THE SECRETARY OF STATE OF THE UNITED STATES PROPOSING ALTERNATIVE PROCEDURE FOR THE INTERNATIONAL PRIZE COURT AND THE INVESTMENT OF THE INTERNATIONAL PRIZE COURT WITH THE FUNCTIONS OF A COURT OF ARBITRAL JUSTICE.

The convention of October 18, 1907, for the establishment of an International Court of Prize, was signed *ad referendum* by the delegates of the United States to the Second Hague Peace Conference, as by the

law of this country treaties and conventions require the approval of the Senate before binding the Government and before ratifications can be exchanged with the contracting parties.

The convention appeals strongly to the sense of justice by which this Government is animated, as the establishment of the Prize Court would substitute, for a national decision, a judgment of an international and disinterested tribunal, composed of a majority of judges selected from neutral countries and thus able and desirous to safeguard neutral rights and protect neutral property. The interest this Government takes in the establishment of the International Prize Court and the benefits to be derived from its successful operation are evidenced by the following passage from President Roosevelt's annual message to Congress, dated December 3, 1907:

A further agreement of the first importance was that for the creation of an international prize court. The constitution, organization and procedure of such a tribunal were provided for in detail. Anyone who recalls the injustices under which this country suffered as a neutral power during the early part of the last century can not fail to see in this provision for an international prize court the great advance which the world is making towards the substitution of the rule of reason and justice in place of simple force. Not only will the international prize court be the means of protecting the interests of neutrals, but it is in itself a step towards the creation of the more general court for the hearing of international controversies to which reference has just been made. The organization and action of such a prize court can not fail to accustom the different countries to the submission of international questions to the decision of an international tribunal, and we may confidently expect the results of such submission to bring about a general agreement upon the enlargement of the practice.

Action upon the prize convention has been postponed owing to the dissatisfaction expressed by several powers concerning the status of the law to be administered by the court by virtue of article 7 of the convention, which dissatisfaction culminated in a formal invitation by Great Britain to Germany, the United States, Austria-Hungary, Spain, France, Italy, Japan, the Netherlands, and Russia, to meet in December, 1908, in order to reach an agreement upon the law to be administered by the court in the absence of special conventions or universally recognized principles of international law. Pursuant to this invitation, the representatives of the powers assembled at London and remained in session until February 26, 1909, when a comprehensive, progressive, and satisfactory declaration on maritime law was unanimously approved by the conference and recommended for adoption by the nonparticipating powers.

The objection to the Prize Court Convention made by several powers at the Second Hague Peace Conference has, therefore, ceased to exist, and it is gratifying to the United States to learn that these powers are prepared to ratify the convention and to participate in the labors of the court when established. The delegation of the United States signed the Declaration of London, formulated at the Conference of London, and its action has been approved by the Department of State, although the Senate of the United States has not as yet had opportunity to take formal action, as it seems desirable to this Government to consider at one and the same time the Convention for the Establishment of the International Prize Court and the Declaration of London.

Although the London conference has removed the international objection to the approval of the convention for the establishment of the prize court, there is, on the part of this Government, shared, it is believed, by various signatories of the convention, a constitutional and, therefore, a national and internal difficulty which requires patience and no little good will to overcome. There is a deep-rooted objection, based upon constitutional reasons, which it is therefore unnecessary to set forth in detail, to the allowance of an appeal from a national judgment, as contemplated by the convention, which may result in the reversal of a national judgment by an international tribunal. Therefore, the United States instructed its delegates to the London conference to propose

An additional article or protocol for the consideration of and eventual acceptance by the conference, by which each signatory of the convention of October 18, 1907, shall possess the option, in accordance with local legislation, either to submit the general question of the rightfulness of any capture to the determination of the International Prize Court, or to permit an appeal from the judgment of a national court in a specific case direct to the International Prize Court as contemplated by the convention of October 18, 1907.

The American delegation acted as directed, and after a careful and conscientious discussion of the proposal and the difficulties it was meant to obviate, the conference adopted unanimously the following *vœu*:

The delegates of the powers represented at the Naval Conference which have signed or expressed the intention of signing the convention of The Hague of the 18th October, 1907, for the establishment of an International Prize Court, having regard to the difficulties of a constitutional nature which, in some States, stand in the way of the ratification of that convention in its present form, agree to call the attention of their respective Governments to the advantage of concluding an arrangement under which such States would have the power, at the time of depositing their ratifications, to add thereto a reservation to the effect that

resort to the International Prize Court in respect of decisions of their national tribunals shall take the form of a direct claim for compensation, provided always that the effect of this reservation shall not be such as to impair the rights secured under the said convention, either to individuals or to their Governments, and that the terms of the reservation shall form the subject of a subsequent understanding between the powers signatory of that convention.

Upon receipt of the text of the *vœu* this Government, on March 5, 1909, cabled to its diplomatic agents accredited to the powers represented at the conference its intention to

Send an identic circular note to each of the participating powers, setting forth at length the reasons which influence the United States to request a rehearing *de novo* of a question involved in a national prize decision, and the means whereby this change of procedure may be effected without interfering with the rights of Governments or individuals under the Prize Court Convention.

In pursuance, therefore, of this express notice and of the deep and abiding interest the United States takes in the establishment of the International Prize Court, the Department of State has the honor to submit to your considerate examination the following observations:

The court contemplated by the Prize Convention of October 18, 1907, is preëminently a court of appeal, with full power to review the decision of a national court of justice, both as to facts and as to the law applied, and, in the exercise of its judicial discretion, not only to affirm or reverse, in whole or in part, the national decision from which the appeal is lodged, but also to certify its judgment to the national court for proceedings in accordance therewith. The International Prize Court, therefore, is an ultimate court of appeal of which, by the convention, national courts are intermediate instances. The purpose of the convention and of the conference which adopted it undoubtedly was and is to secure determination by an international tribunal of a controversy affecting neutral rights and property arising from capture and confiscation in war and by a series of well-considered judgments to establish by international decisions the principles of international prize law. The Government of the United States is in hearty accord with this purpose and desires to cooperate in its realization, but is, however, of the opinion that the end in view may be effectuated without violating the spirit of the convention and, indeed, without amending it, so that, for those countries unable or unwilling to submit the judgments of their national courts to international review, a simple expedient may be devised by virtue of which the question in controversy, instead of the actual judgment of the national court, may be

submitted to the International Court at The Hague for final determination without sacrificing substance to form, and without interfering with the practice of the United States in such matters. To illustrate this position by concrete examples taken from controversies with Great Britain arising out of the Civil War:

Questions involved in the following cases upon which decisions had been rendered by the Supreme Court of the United States were afterwards submitted to arbitration by the United States under the British-American Claims Convention sitting under article 12 of the Treaty of Washington, dated May 8, 1871, for decision "according to justice and equity:"

1. Questions which the international tribunal decided adversely to the decision of the Supreme Court of the United States, which international decisions were obeyed by the United States: *The Hiawatha*, 2 Black, 635, 4 Moore's International Arbitrations, 3902; *The Circassian*, 2 Wallace, 135, 4 Moore, 3911; *The Springbok*, 5 Wallace, 1, 4 Moore, 3928; *The Sir William Peel*, 5 Wallace, 517, 4 Moore, 3935; *The Volant*, 5 Wallace, 179, 4 Moore, 3950; *The Science*, 5 Wallace, 178, 4 Moore, 3950.

2. Questions in which the decision of the international tribunal upheld the decision of the Supreme Court of the United States: *The Peterhoff*, 5 Wallace, 28, 4 Moore's International Arbitrations, 3838; *The Dashing Wave*, 5 Wallace, 170, 4 Moore, 3948; *The Georgia*, 7 Wallace, 32, 4 Moore, 3957; *The Isabella Thompson*, 3 Wallace, 155, 3 Moore, 3159; *The Pearl*, 5 Wallace, 574, 3 Moore, 3159; *The Adela*, 6 Wallace, 266, 3 Moore, 3159.

It is therefore evident that the demands of justice would be satisfied by submitting the question involved to impartial international determination, for although the controversy is based upon the decision of a national court of justice, the judgment of the international tribunal, while satisfying the claimant and settling the principle of international law involved, would not affect the validity of the national judgment within its jurisdiction. The national decision would remain in full force so far as the nation is concerned, in that it is not reversed by an international tribunal; but the international law properly applicable to the case would have been determined by an international tribunal, thus establishing for the community of nations the correct principle of international law.

The proposal of the United States leaves untouched and unquestioned the composition of the court, its jurisdiction and procedure, and only

affects the question of appeal in its technical rather than its equitable sense, because dissatisfaction with the decision of a national court is the cause of the proceeding before the international tribunal, and the judgment of this august tribunal is binding upon the signatory powers by virtue of article 9. The advantage of the proposal lies in the fact that it does not bring national and international decisions into conflict with a reversal of the former by the latter, and without wounding national susceptibility, leaves unaffected the constitutional law of the signatories.

The proposition of the United States is based upon the alternative remedy contained in the second sentence of the second paragraph of article 8 of the International Prize Court Convention, combined with the statements contained in the final paragraph of article 3 and article 42. For the sake of clearness, these provisions of the convention follow:

If the vessel or cargo have been sold or destroyed, the court shall determine the compensation to be given to the owner on this account. (Article 8, second sentence of second paragraph.)

The appeal against the judgment of the national court can be based on the ground that the judgment was wrong either in fact or in law. (Article 3, final paragraph.)

The court takes into consideration in arriving at its decision all the facts, evidence, and oral statements. (Article 42.)

Analyzing these articles, it is apparent that the convention assumes that the captured vessel or cargo may have been sold, destroyed, or otherwise be beyond the power of the captor, in which case only the question of liability with compensation in damages can be considered. In like manner the convention contemplates, in appropriate cases, the retrial of the controversy *de novo*, because the court is made competent not merely to consider the law, but also the facts involved in the case and to take evidence, by virtue of articles 27 and 35, either at the request of one of the parties or upon the court's initiative, and such evidence may be produced before the court itself or before one or more of its members (article 36). It is thus seen that the convention not only permits evidence to be taken in order to ascertain the facts in controversy, but provides adequate machinery for its presentation, thus permitting a trial of the case *de novo* both as to the facts involved and the law to be applied.

Lest the alternative method contained in the proposal be considered to militate against the speedy determination of the controversy, and that the signatory powers, their subjects and citizens, may seem to be deprived of their right of presenting the controversy to an international

court within the time and in the manner prescribed by the convention, the Department states specifically that the rights secured under the convention, both as to parties and to the periods within which the proceedings shall begin, are expressly recognized by the United States.

This Government therefore proposes that in the instrument of ratification of the International Prize Court Convention each of its signatories specify, on account of the difficulties of a constitutional nature which, in some States, stand in the way of the ratification of the Convention for the Establishment of the International Prize Court, signed October 18, 1907, that any signatory may insert a reservation to the effect that resort to the International Prize Court in respect of decisions of its national tribunals shall take the form of a direct claim for compensation; that the proceedings thereupon to be taken shall be in the nature of a trial *de novo* of the question at issue; that the judgment of the court shall consist of compensation for the illegal capture, irrespective of the decision of the national court whose judgment is thus called in question, although a certified copy of the national judgment may be submitted to the International Prize Court for its consideration and information; provided, however, that the effect of this reservation shall not be such as to impair the other rights secured under the said convention either to individuals or to their Governments, including the periods within which resort to the International Prize Court shall be made.

The acceptance of this proposal might be expressed in the following manner:

*Whereas*, Objections of a constitutional nature in certain signatory States render the ratification of the Convention for the Establishment of an International Prize Court, signed at The Hague October 18, 1907, difficult or impossible; and

*Whereas*, It is highly desirable that all the powers represented at the Second Hague Peace Conference may be enabled to ratify the convention and cooperate in the labors of the International Prize Court;

Therefore, the Government of \_\_\_\_\_, for itself and as far as the signatories of the International Prize Court are concerned, agrees that any signatory of the aforesaid convention may insert in the act of ratification thereof a reservation to the effect that resort to the International Prize Court in questions affecting judgments of its national tribunals may take the form of a direct claim for compensation, as provided in article 8, second paragraph, last sentence, of the said convention; that the proceedings thereupon to be had shall be in the nature of a trial *de novo* of the question of liability involved in the alleged illegal act of the captor; that the judgments of the International Prize Court shall thereupon, in accordance with article 8 of the aforesaid convention, decree compensation for the illegal capture, irrespective of the

decision of the national court involved, although a certified copy of the national judgment and the records of the case shall be submitted upon request to the International Prize Court for its consideration and information; and that each signatory consenting to the exercise of this optional and alternative procedure, under article 8 of the aforesaid convention, for States with the constitutional difficulties aforementioned, shall specify its consent to such optional and alternative procedure in the instrument of ratification of the International Prize Court convention;

*Provided, however,* That the effect of this reservation shall not impair the other rights secured under the aforesaid convention either to governments, their subjects or citizens, or the periods within which resort to the International Prize Court shall be made.

The Department of State assures the signatories of the Convention of October 18, 1907, for the Establishment of an International Prize Court, that the acceptance of this or a substantially similar protocol and its incorporation in the instrument of ratification will remove the constitutional objection to the establishment of the proposed court and will enable the United States to participate in its highly beneficent labors.

The Department of State considers the adoption of the alternative method of procedure for the International Prize Court as calculated to secure not only its definitive establishment, but, in addition, to render possible the composition of the Court of Arbitral Justice. To bring this subject to the attention of the powers represented at the Maritime Conference at London, the Department of State on February 6, 1909, instructed its delegates as follows:

In order to confer upon the prize court the functions of an arbitral court contemplated in the first recommendation of the final act of the second conference, the Department proposes the following article additional to the draft protocol concerning the prize court, next to the last paragraph of your instructions:

"And any signatory of the convention for the establishment of the prize court may provide further in the act of ratification thereof that the international court of prize shall be competent to accept jurisdiction of and decide any case arising between signatories of this proposed article submitted to it for arbitration, and the international prize court shall thereupon accept jurisdiction and adopt for its consideration and decision of the case the project of convention for the establishment of a court of arbitral justice adopted by the second Hague conference, the establishment of which was recommended by the powers through diplomatic channels.

"Any signatory of the convention for the establishment of the international court of prize may include in its ratification thereof the proposed articles and become entitled to the benefits thereof."

The Department earnestly hopes and urges adoption of the proposed articles.



The proposal was accordingly made by the American delegation, but it was deemed more advisable to prosecute through diplomatic channels a matter of such magnitude. Therefore, on March 5, 1909, the Department notified the countries represented at the Maritime Conference of its intention to prepare and transmit an identic circular note, showing

The advisability of investing the prize court with the jurisdiction and functions of a court of arbitral justice in order that international law may be administered and justice done in peace as well as in war by a permanent international tribunal; that this close connection between the two courts was contemplated by the framers of the arbitral court as appears from article 16 of the draft convention by virtue of which the judges of the arbitral court might exercise the functions of judges in the prize court. The failure to constitute the arbitral court, although the method of appointing judges was substantially the same for both courts, renders this provision ineffective, but it is possible to carry out the intent of the proposers in this and to constitute the arbitral court by investing the prize court with the functions of an arbitral court and to prescribe the draft convention of the arbitral court as a code of procedure when so acting.

It is not the intention of this Government to use pressure of any kind to secure the acceptance of its views, but the United States feels that the constitution of the arbitral court as a branch or chamber of the prize court for the nations voluntarily consenting thereto would not only enhance the dignity of the prize court, but by creating a permanent court of arbitration would contribute in the greatest possible manner to the cause of judicial, and therefore peaceable, settlement of international difficulties.

Pursuant to this notification, the Department of State has the honor to make the following observations:

It has been a subject of profound regret to the Government and people of the United States that a Court of Arbitral Justice, composed of permanent judges and acting under a sense of judicial responsibility, representing the various judicial systems of the world and capable of insuring continuity in arbitral jurisprudence, was not established at the Second Hague Peace Conference, and the United States likewise regrets that the composition of the proposed Court of Arbitral Justice has not yet been effected through diplomatic channels, in accordance with the following recommendation of the conference:

The conference recommends to the signatory powers the adoption of the project, hereunto annexed, of a convention for the establishment of a court of arbitral justice and its putting into effect as soon as an agreement shall have been reached as to the choice of the judges and the constitution of the court.

A careful consideration of the project and of the difficulties preventing the constitution of the court, owing to the shortness of time at the dis-

posal of the conference, has led the Government of the United States to the conclusion that it is necessary in the interest of arbitration and the peaceful settlement of international disputes to take up the question of the establishment of the court as recommended by the recent conference at The Hague and secure through diplomatic channels its institution.

The necessary and close connection between the International Prize Court and the proposed Court of Arbitral Justice was indicated in article 16 of the Draft Convention of the Court of Arbitral Justice, as follows:

The judges and deputy judges, members of the Judicial Arbitration Court, can also exercise the functions of judge and deputy judge in the International Prize Court.

The reason which existed in 1907 and led to the formulation of the articles still continues. It has therefore occurred to the United States that the difficulty in the way of reaching an agreement upon the composition of the court would be obviated by giving practical effect to article 16 by an international agreement by virtue of which the judges of the International Prize Court should be competent to sit as judges of the Court of Arbitral Justice for such nations as may freely consent thereto, and that when so sitting the judges of the International Prize Court shall entertain jurisdiction of any case of arbitration submitted by a signatory for their determination and decide the same in accordance with the procedure prescribed in the draft convention. In proposing to invest the International Prize Court with the jurisdiction and functions of the proposed Court of Arbitral Justice the United States is actuated by the desire to establish a court of arbitration permanently in session at The Hague for the peaceful solution of controversies arising in time of peace between the nations accepting and applying in their foreign relations the principles of an enlightened and progressive international law.

It is a truism that it is easier to enlarge the jurisdiction of an existing institution than to call a new one into being, and as the judges and deputy judges of the International Prize Court must be thoroughly versed in international law and of the highest moral reputation, there can be no logical or inherent objection to enlarging their sphere of beneficent influence in vesting them with the quality of judges of the proposed Court of Arbitral Justice.

The proposal of the United States does not involve the modification either of the letter or spirit of the draft convention, nor would it require a change in wording of any of its articles. It would, however, secure the

establishment of the Court of Arbitral Justice as a chamber of the world's first international judiciary and thus complete through diplomatic channels the work of the Second Hague Conference by giving full effect to its first recommendation.

In proposing this solution of the difficulty the United States is influenced by daily practice and procedure in its national courts of justice, where one and the same judge administers law and equity, admiralty and prize, which, under its system of procedure, are different systems of law. The United States therefore proposes that in the instrument of ratification of the International Prize Court Convention, signed at The Hague October 18, 1907, any of its signatories consenting to invest the International Prize Court with the powers of a Court of Arbitral Justice shall signify its assent thereto in the following form:

*Whereas*, It is highly desirable that the Court of Arbitral Justice, approved and recommended by the Second Hague Peace Conference, be established through diplomatic channels; and

*Whereas*, Investing the International Prize Court with the duties and functions of the proposed Court of Arbitral Justice would constitute for the consenting powers the said Court of Arbitral Justice, as recommended by the first *voeu* of the final act of the said conference;

Therefore, the Government of \_\_\_\_\_ agrees that the International Court of Prize, established by the convention signed at The Hague October 18, 1907, and the judges thereof, shall be competent to entertain and decide any case of arbitration presented to it by a signatory of the International Court of Prize, and that when sitting as a Court of Arbitral Justice the said International Court of Prize shall conduct its proceedings in accordance with the Draft Convention for the Establishment of a Court of Arbitral Justice, approved and recommended by the Second Hague Peace Conference on October 18, 1907.

The United States is not without precedent in suggesting a modification of a convention of The Hague Peace Conference, for it is common knowledge that article 10 of the Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of August 22, 1864, was by agreement through diplomatic channels omitted from the ratification of the convention. Germany, the United States, Great Britain, and Turkey objected to article 10 and, on signing, excepted it from the convention. Therefore, M. de Beaufort, Minister for Foreign Affairs of the Netherlands, addressed an identic circular note, dated January 29, 1900, to the signatory powers, in which he said:

This obligation, which the above-mentioned powers did not feel warranted in accepting, as is especially the case with regard to Great Britain, would not be

in conformity with the legislation of certain other powers, and, therefore, would meet with opposition in the Parliaments which would have to give their approval in this matter.

Under the circumstances, and also by reason of the desirability that there should be a uniformity established in the respective obligations resulting from this convention for the contracting powers, a uniformity which would be endangered by the reservations made by four of them, the Government of Her Majesty the Queen of the Netherlands deems there should be a means of excluding the ratification of the said article 10, which of itself otherwise is only of secondary interest.

It is to be hoped that if this proposition is accepted — and I am happy to be able to inform you that the Imperial Russian Government entirely agrees with us in our views on this, the subject of the exclusion of the above-mentioned article — the ratification would not meet with any other difficulty of internal form in the different countries, and it could be effected with little delay, which would be highly desirable.

As the result of an exchange of views, the minister of the Netherlands, at Washington, informed the Department of State on April 30, 1900, that:

The former proposition of the Government of the Queen, which formed the subject of Mr. de Beaufort's communication No. 1109, of January 29 last, addressed to Mr. Stanford Newel, suggesting the exclusion of the ratification of article 10 of the convention for the adaptation to maritime warfare of the principles of the Geneva Convention, has received the consent of all the States which up to the present have made known their views.

These powers being in the majority, and the adoption of the proposition by the other interested States being probable, it is important that, with a view of expediting the filing of these acts of ratification, a uniform method for emphasizing this exclusion should be established now.

The Cabinet of St. Petersburg has suggested, for this purpose, a combination which consists in inserting in the act of ratification a copy of the convention in which the text of article 10 would be replaced by the word "exclu" (excluded) while still preserving the proper numbering of the articles.

Copies prepared in conformity with the method above indicated will be placed at the disposal of those Governments who wish them.

In thus proposing an alternative method for the decision of prize cases submitted to the International Prize Court and urging the creation of a Court of Arbitral Justice by an apt clause in the instrument of ratification of the Convention for the Establishment of the International Prize Court, the United States is influenced by the sincere desire not merely to render its coöperation in the matter of the Prize Court possible and to secure the constitution of the Court of Arbitral Justice, but is en-

deavoring in a thoroughly disinterested manner to advance the cause of international justice and peace.

As the Department of State desires to submit the Prize Court Convention as thus understood and explained, and the Draft Convention for the Creation of the Court of Arbitral Justice to the approaching session of the Senate for approval and ratification, an early reply to this circular note is earnestly requested.

P. C. KNOX,  
*Secretary of State.*

OCTOBER 18, 1909.

## OFFICIAL DOCUMENTS

ANNEXES TO THE PROCES-VERBAL OF THE TENTH PLENARY SESSION OF  
THE THIRD INTERNATIONAL CONFERENCE ON MARITIME LAW.

### *ANNEX I.*

OUTLINE OF A PROPOSED CONVENTION, REGARDING THE LIMITATION OF  
THE RESPONSIBILITY OF SHIP OWNERS, AS SUBMITTED TO THE  
EXAMINATION OF THE GOVERNMENTS CONCERNED.

(October 6-7, 1909.)

#### ARTICLE 1.

The stipulations of this convention shall be applicable in each contracting nation when one of the interested parties is a citizen or subject of another contracting nation, as well as in other cases provided for in the national laws.

However, the principle laid down in the foregoing paragraph shall not affect the rights of the contracting nations not to apply the stipulations of this convention in favor of the citizens or subjects of a non-contracting nation.

#### ARTICLE 2.

To the extent only of the (value of) a vessel and of the (amount of) freight (received therefor) (for a given voyage), as well as of any perquisites received in connection with the vessel and with the freight and arising from the voyage (in question), the owner of the vessel shall be liable —

1. For any injury caused to the property and rights of any nature belonging to third parties, on land or water, by the acts and omissions of the master, the crew, the pilot, or any other person in the service of the vessel.

2. For any injury caused to the cargo transported or to any other property or articles on board the vessel, as well as for any other injury caused by a fault of navigation even in the execution of a contract.

3. For compensation allowed for assistance, and for salvage.

4. For any obligations resulting from contracts concluded by the master in accordance with his legal powers, in case of necessity, outside

of the port of registry of the vessel, for the sake of preserving the vessel or continuing the voyage, if the need has been occasioned by accident.

When the owner of the vessel is at the same time the master, the same limitation applies, but solely with respect to faults of navigation.

#### ARTICLE 3.

The freight referred to in Article 2 is the rent or the freight without deduction, whether it be a question of freight or rent paid in advance, or freight or rent still due, or of freight or rent acquired at all hazards.

Passages and demurrage are classed with freight within the meaning of this convention.

The perquisites mentioned in Article 2 are:

1. Any compensation paid to or due the owner of the vessel for gross average, as far as the latter constitutes a material injury sustained by the vessel and not repaired, or losses of freight.

2. Compensation paid or due in reparation of damages, whether it be a question of damages sustained by the vessel and not repaired, or losses of freight.

3. Amounts paid or due to the owner of the vessel for assistance or salvage, after deducting the sums allowed to the master and to the crew.

Indemnities due or paid under insurance contracts, and premiums, subsidies, or other national pecuniary assistance, are not considered as perquisites of the vessel.

#### ARTICLE 4.

If there is a first lien on the vessel or on the freight in favor of creditors toward whom it is not permissible to limit the responsibility, the owner of the vessel shall be personally obliged to make up in cash the sum constituting the limit of his responsibility, including the amounts deducted by his creditors.

#### ARTICLE 5.

The owner may substitute in lieu of the vessel the value thereof at the end of the voyage.

#### ARTICLE 6.

The owner shall have the privilege of exempting the vessel, the freight, and the perquisites mentioned in Article 2 by paying a sum corresponding per voyage to eight pounds sterling per ton of the gross burden of his vessel.

This provision does not apply either to the compensation for assistance or to salvage or to the case contemplated under number 4 of Article 2.

## ARTICLE 7.

The voyage is considered to be terminated, as far as the vessel is concerned, at the first port of call (*d'cale ou de relache*) which it reaches after the event justifying an action for damages (*donnant lieu au recours*) or at the port in which it is situated when such event occurs.

If the place where the event has occurred is not determined, the voyage is considered terminated at the point where the performance of the obligation (the non-fulfillment of) which gives rise to remedial action was to terminate.

## ARTICLE 8.

As regards the freight, various formulas have been suggested:

1. The freight and perquisites mentioned in Article 3 are the freight and the perquisites acquired from the beginning of the voyage to the port determined in Article 7.

2. To substitute a stipulated amount (forfeit), calculated per ton, in place of the freight, the passage, the demurrage, and the perquisites mentioned in Article 3, taking into account the distance already traveled and the nature of the vessel.

## ARTICLE 9.

The owner may, in the interest of whom it may concern, take any useful measure with respect to the vessel, without forfeiting the right to exercise the options provided in the foregoing clauses.

He shall be responsible for any deterioration or any injury which may be sustained by the vessel, in consequence of a new voyage, to the detriment of the creditors toward whom a limitation of responsibility is permissible.

## ARTICLE 10.

The foregoing provisions shall not affect the right of the creditors to seize the vessel.

## ARTICLE 11.

The foregoing provisions do not apply to obligations arising from the personal faults of the owner, from contracts concluded by him, or from such as he has authorized or ratified.

They apply to the obligation to remove the hulk of a sunken vessel, and to the responsibilities connected therewith, whether or not the master be at fault.



ARTICLE 12.

If the person who fits out a vessel of which he is not the owner is responsible for the claims in regard to which the responsibility of the owners is limited according to this convention, he shall be entitled to the same limitation.

If the sub-charterer is responsible for claims arising from the sub-charter contracts, he is entitled to this limitation in as far as the master has undertaken to carry out these contracts by receiving the merchandise or by signing a bill of lading.

ARTICLE 13.

The present convention shall be inapplicable to claims for loss of human lives or bodily injury, which shall continue to be governed exclusively by the national laws.

Nothing in the foregoing provisions shall affect the jurisdiction of courts, procedure, and methods of enforcement established by national laws.

*ANNEX II.*

OUTLINE OF A PROPOSED CONVENTION, REGARDING MARITIME MORTGAGES AND PRIVILEGED LIENS, AS SUBMITTED TO THE EXAMINATION OF THE GOVERNMENTS CONCERNED.

(Oct. 6-7, 1909.)

ARTICLE 1.

Hypothecations, mortgages, and pledges, on vessels, regularly established in accordance with the laws of a contracting nation to which a vessel belongs, and recorded in a public record either of the port of registry or of a central recording office, shall be respected in all the other countries and shall produce the same effect there as in the country of origin.<sup>1</sup>

ARTICLE 2.

Privileged liens shall take precedence over the rights mentioned in the foregoing article.

<sup>1</sup> Certain objections have been made to the words underscored, it having been recognized that 1) questions of procedure and 2) sovereign rights in case of contraband war, prizes, etc., are not affected by the provisions.

## ARTICLE 3.

The following claims, in the order given, shall alone constitute privileged liens on a vessel, on the perquisites pertaining thereto, and on the rent or freight received therefor for the voyage during which the privileged claims arise:

1. Judicial expenses, tonnage, lighthouse, and port dues, and other public taxes and imposts of the same kind, and expenses of guarding and preservation after the entrance of the vessel into the last port.

2. Claims arising from the contract of hire of the master, the crew, or other persons embarked in the service of the vessel, and the expenses of piloting.

3. Compensation due for salvage and assistance, and the contribution of the vessel to gross average.

4. Claims for supplies and repairs and other obligations contracted for the same purpose by the master, in case of necessity, outside the port of registry, for the preservation of the vessel or for the sake of continuing the voyage, as far as such acts have been rendered necessary by an actual need, whether or not the master is at the same time the owner of the vessel and whether the claim is his or that of the suppliers, repairers, lenders, or other contractors.

5. Indemnities due to another vessel, its cargo, its crew, or its passengers by reason of a collision or any other accident arising from a fault of navigation.<sup>2</sup>

## ARTICLE 4.

The order of preference of the privileged liens relating to the same voyage is regulated in accordance with the enumeration given in Article 3. The claims appearing under one and the same number of this article are considered according to their proportionate amounts.

However, the claims enumerated in Article 3 under numbers 3 and 4 shall be considered in the inverse order of the dates on which they have

<sup>2</sup> The closing protocol would contain the following provisions: It is understood that the legislation of each nation shall retain the privilege of granting, to the authorities of the nation or to other public authorities who have caused a hulk or other objects obstructing navigation to be removed, the right to sell these objects and to compensate themselves, from the proceeds of the sale, for the expenses of removal in preference to other creditors. It is likewise understood that the national legislation retains the right to grant a privileged lien to public insurance institutions for claims arising from the insurance of the personnel of the vessels.

arisen, claims arising from the same emergency being regarded as having originated at the same time.

In case the claims contemplated under number 4 of Article 3 arise from expenditures made or personal obligations contracted by the master, they shall be preferred to the other claims mentioned in this provision.

#### ARTICLE 5.

If claims do not relate to the same voyage, the privilege liens of claims of a subsequent voyage take precedence over those of a previous voyage.

#### ARTICLE 6.

A privileged lien ceases to exist upon the expiration of a period of two years from the date of the origin of the claim.

In the case of the claims referred to in Article 3 under number 2, this period is one year, beginning on the date when the service ceases to be rendered.

The causes of suspension and interruption of this limitation period shall be determined by the law governing in the court taking cognizance of the case.

The high contracting parties reserve the right to admit in their legislation, as extending the period fixed above, the fact that it has been impossible to seize the vessel in the territorial waters of the nation in which the plaintiff has his domicile or his headquarters.

#### ARTICLE 7.

A privileged lien on the rent or freight may be enforced while the rent or freight is in the hands of the charterer, loader, consignee, master, agent, or any other third party. It ceases to exist when the freight is received by the owner himself.

#### ARTICLE 8.

The privileged liens established by the foregoing provisions are not subject to any formality or to any special condition respecting proof.

#### ARTICLE 9.

The foregoing provisions are applicable to vessels managed or employed by other persons than the owner, except when the owner has been dispossessed by an unlawful act and when, besides, the creditor is not a bona fide one.

## ARTICLE 10.

The perquisites referred to in Article 3 are :

1. Compensation paid or due to the owner of a vessel for gross average as far as the latter constitutes either a material injury sustained by the vessel and not repaired, or losses of freight.

2. Compensation paid or due for reparation of damages, whether it be a question of damages sustained by the vessel and not repaired, or of losses of freight.

3. Amounts paid or due to the owner of the vessel for assistance or salvage, after deducting the amounts allowed to the master or the crew.

Indemnities due or paid under insurance contracts, or premiums, subsidies, or other national pecuniary assistance, are not considered as perquisites of the vessel.

## ARTICLE 11.

The provisions of the present convention shall be applicable in each contracting nation when one of the interested parties is a citizen or subject of another contracting nation, as well as in other cases provided for in the national laws.

However, the rule laid down in the foregoing paragraph shall not affect the right of the contracting nations not to apply the provisions of the present convention in favor of the citizens or subjects of a non-contracting nation.

## ARTICLE 12.

The present convention shall not be applicable to government vessels.

*ANNEX III.*

INTERNATIONAL CONVENTION FOR THE PURPOSE OF ESTABLISHING  
UNIFORMITY IN CERTAIN RULES REGARDING COLLISIONS.

## ARTICLE 1.

In the case of collisions occurring between seagoing vessels or between seagoing vessels and boats engaged in inland navigation, the reparation of the injuries caused to the vessel and to the things or persons on board thereof shall be subject to the following provisions, without regard to the waters where the collision occurs :

## ARTICLE 2.

If the collision is accidental, or is due to uncontrollable events, or if there is a doubt as to the causes thereof, the damages shall be borne by those who have sustained them.

This provision shall be applicable in cases in which both or either of the vessels are at the anchoring ground at the time of the accident.

## ARTICLE 3.

If the collision is due to the fault of one of the vessels, the reparation of the damage shall be incumbent on the one which has committed the fault.

## ARTICLE 4.

If both are at fault, the responsibility of each of the vessels shall be in proportion to the gravity of the faults respectively committed; however, if, according to the circumstances, the proportion cannot be established or if the faults appear to be equal, the responsibility shall be shared equally.

Injuries caused to the vessels, to their cargo, or to the personal effects or other property of the crew, passengers, or other persons on board, shall be borne by the vessels at fault in the aforesaid proportion, without any joint responsibility on the part of third parties.

The vessels at fault shall be jointly responsible toward third parties for injuries caused by death or wounds, except that the vessel which has paid a portion exceeding that which it should finally bear in accordance with the foregoing paragraph of the present article shall be entitled to recover.

It shall be incumbent upon the national laws to determine, with respect to this action for recovery, the scope and effect of the provisions of contracts or laws which limit the responsibility of the owners of vessels toward the persons on board thereof.

## ARTICLE 5.

The responsibility established by the foregoing articles continues to exist in case the collision is caused by the fault of a pilot, even when the employment of the latter is compulsory.

## ARTICLE 6.

An action for damages on account of injuries sustained from a collision shall not be subject either to a protest or to any other special formality.

There shall be no legal presumptions of fault as regards the responsibility for the collision.

#### ARTICLE 7.

Actions for damages shall be barred by limitation at the end of two years from the date of the event.

The period within which actions for recovery as permitted by paragraph 3 of Article 4 may be begun shall be one year. This period shall begin only on the day of the payment.

The causes of suspension and interruption of these limitation periods shall be determined by the law governing in the court taking cognizance of the case.

The High Contracting Parties reserve the right to admit in their laws, as extending the periods fixed above, the fact that the defendant vessel could not be seized in the territorial waters of the nation in which the plaintiff has his domicile or his headquarters.

#### ARTICLE 8.

After a collision, the master of each of the colliding vessels shall be obliged, as far as he can do so without serious danger to his vessel, his crew, and his passengers, to lend assistance to the other vessel, its crew, and its passengers.

He shall also be obliged, as far as possible, to make known to the other vessel the name and port of registry of his vessel, as well as the places from which it hails and to which it is bound.

The owner of the vessel shall not be responsible by reason of the violation alone of the foregoing provisions.

#### ARTICLE 9.

The High Contracting Parties whose laws do not provide a penalty for violations of the foregoing article undertake to take or to propose to their respective legislatures the necessary measures to punish such violations.

#### ARTICLE 10.

Without regard to what subsequent conventions may provide, the present provisions do not affect the nature or extent of the responsibility of ship owners as regulated in each country, nor the obligations arising from transportation contracts or any other contracts.

ARTICLE 11.

The present convention shall not be applicable to war vessels or to government vessels exclusively devoted to the public service.

ARTICLE 12.

The provisions of the present convention shall be applicable with regard to all the interested parties, when all the vessels concerned belong to the contracting nations and in other cases provided for by the national laws.

It is understood, however :

1. That, with regard to interested parties who are citizens or subjects of a non-contracting nation, the application of said provisions may be made subject by each of the contracting nations to the condition of reciprocity.

2. That, when all the interested parties are citizens or subjects of the same nation as the court trying the case, the law of the nation and not this convention shall apply.

ARTICLE 13.

The present convention applies also to the reparation of damages which one vessel has caused to another vessel or to the things or persons on board thereof by executing or failing to execute a maneuver or by failing to observe the regulations, even when there has been no collision.

ARTICLE 14.

The delegates of the High Contracting Parties shall meet at Brussels three years after this convention goes into force, for the purpose of examining what improvements can be made therein and especially in order to extend its sphere of application if possible.

ARTICLE 15.

Nations which have not signed the present convention shall be permitted to adhere to it at their request. Notice of such adhesion shall be communicated through diplomatic channels to the Belgian Government and by the latter to each of the governments of the other contracting parties. The adhesion shall take effect one month after the transmission of the notice given by the Belgian Government.

## ARTICLE 16.

The present convention shall be ratified and the ratifications thereof deposited at Brussels as soon as possible. At the expiration of a period of one year at most, counting from the date of signature of the convention, the Belgian Government shall enter into communication with the governments of the High Contracting Parties which have declared their readiness to ratify it, for the purpose of having a decision reached as to whether there is occasion for putting it into force.

The ratifications shall be deposited at once, if so decided, and the convention shall take effect one month after such deposit.

The protocol shall remain open for a year to the signature of the nations represented at the Brussels conference. Upon the expiration of that period they shall only be allowed to adhere to it in accordance with the provisions of Article 15.

## ARTICLE 17.

In case one or another of the High Contracting Parties should denounce the present convention, such denunciation shall not take effect until one year after the date on which notice thereof is given to the Belgian Government, and the convention shall remain in force among the other contracting parties.

In witness whereof the plenipotentiaries of the respective High Contracting Parties have signed the present Convention and affixed thereto their seals.

Done at Brussels, in a single copy, the .....

The foregoing text was adopted at a session of the Brussels Conference held October 6, 1909.

Certified by the President of the Conference:

(Signed) A. BEERNAERT.

N. B. — The Delegations of the following countries have declared their readiness to sign the foregoing text *ad referendum*, provided it is signed by the other governments represented at the conference:

Germany, Argentine Republic, Austria, Hungary, Belgium, Brazil, Chile, Cuba, Denmark, Spain, United States of America, France, Great Britain, Greece, Italy, Japan, Mexico, Nicaragua, Norway, Netherlands, Portugal, Roumania, Russia, Sweden.



*ANNEX IV.*

INTERNATIONAL CONVENTION CONCERNING THE ESTABLISHMENT OF  
UNIFORMITY IN CERTAIN RULES RELATING TO ASSISTANCE  
AT SEA AND SALVAGE.

## ARTICLE 1.

Assistance and salvage of seagoing vessels in danger, of the things on board, and of the freight and passage money, as well as services of like nature rendered between seagoing vessels and vessels of inland navigation, shall be subject to the following provisions, there being no distinctions to be made between these two kinds of services and no account to be taken in what waters they have been rendered.

## ARTICLE 2.

Every act of assistance or salvage which has a useful result shall give a right to a fair remuneration.

No remuneration shall be due if the assistance lent has no useful result.

In no case shall the sum paid exceed the value of the things saved.

## ARTICLE 3.

Persons who have taken part in the work of assistance notwithstanding they have been expressly and reasonably forbidden to do so by the assisted vessel shall not be entitled to any remuneration.

## ARTICLE 4.

A tug boat shall not be entitled to remuneration for assistance or salvage of the vessel towed by it or of its cargo unless it has rendered exceptional services which can not be considered as a performance of the towing contract.

## ARTICLE 5.

A remuneration shall be due even though the assistance or salvage has taken place between vessels belonging to the same owner.

## ARTICLE 6.

The amount of remuneration shall be fixed by the agreement of the parties, and in default thereof, by the judge.

It shall be the same with regard to the proportion in which this remuneration is to be distributed among the rescuers.

The distribution among the owner, the master, and the crew of each of the rescuing vessels shall be regulated by the national law of the vessel.

#### ARTICLE 7.

Every agreement for assistance and salvage concluded at the time and under the influence of the danger may, at the request of one of the parties, be annulled or modified by the judge if he considers that the conditions agreed upon are not fair.

When it is proven that the consent of one of the parties has been vitiated by fraud or by reticence, or when the remuneration is excessively out of proportion, one way or the other, to the service rendered, the agreement may be annulled or modified by the judge at the instance of the party concerned.

#### ARTICLE 8.

The remuneration shall be fixed by the judge according to the circumstances, taking as a basis: a) in the first place, the success attained, the efforts and the merit of those who have lent assistance, the danger run by the assisted vessel, by its passengers and its crew, by its cargo, by the rescuers and by the rescuing vessel, the time spent, the expenses and damages sustained, and the risks of responsibility and others run by the rescuers, the value of the property exposed by them, taking into account any special mission in which the assisting vessel may be engaged; b) in the second place, the value of the things saved.

The same provisions apply to the distribution provided for in Article 6, paragraph 2.

The judge may reduce or withhold the remuneration if it appears that the rescuers have rendered the salvage or assistance necessary through their own fault or if they have been guilty of theft, concealment, or other fraudulent acts.

#### ARTICLE 9.

No remuneration shall be due from the persons saved, though the provisions of national laws in this respect shall not be affected.

Savers of human lives who have participated in the same dangers shall be entitled to a fair share of the remuneration granted to the rescuers of the vessel, the cargo, and their accessories.

#### ARTICLE 10.

The right of action to enforce payment of the remuneration shall be barred by limitation at the expiration of two years from the date on which the operations of assistance or salvage are terminated.

The causes of suspension and interruption of this period shall be determined by the law of the court trying the case.

The High Contracting Parties reserve the right to admit in their legislations, as extending the period fixed above, the fact that the assisted or saved vessel could not be seized in the territorial waters of the nation in which the plaintiff has his domicile or his headquarters.

#### ARTICLE 11.

Every master shall be obliged, as far as he can do so without serious danger to his vessel, his crew, or his passengers, to lend assistance to any person, even an enemy, found at sea in danger of perishing.

The owner of the vessel shall not be liable for violations of the foregoing provision.

#### ARTICLE 12.

The High Contracting Parties whose legislation does not provide a penalty for violations of the foregoing article undertake to adopt or propose to their respective legislatures the necessary measures in order to punish such violations.

The High Contracting Parties shall communicate to one another, as soon as possible, any laws or regulations which may have already been or which may be enacted in their nations for the enforcement of the foregoing provision.

#### ARTICLE 13.

The present convention shall not affect the provisions of national laws or international treaties regarding the organization of services of assistance and salvage by the public authorities or under their supervision, and especially regarding the salvage of fishing tackle.

#### ARTICLE 14.

The present convention shall not be applicable to war vessels and to government vessels exclusively devoted to a public service.

#### ARTICLE 15.

The provisions of the present convention shall be applicable with respect to all the interested parties when either the assisting or rescuing vessel or the assisted or rescued vessel belongs to one of the contracting nations, as well as in other cases provided for in the national laws.

It is understood, however :

1. That, with respect to interested parties who are citizens or subjects of a non-contracting nation, the application of said provisions may be made subject by each of the contracting nations to the conditions of reciprocity.

2. That, when all the interested parties are citizens or subjects of the same nation as the court trying the case, the national law and not this convention shall be applicable.

3. That, without prejudice to more extensive provisions of national laws, Article 11 shall only be applicable between vessels belonging to citizens or subjects of the contracting nations.

#### ARTICLE 16.

The Delegates of the High Contracting Parties shall meet at Brussels, three years after the present convention goes into force, for the purpose of examining what improvements can be made therein and especially of extending its sphere of application if possible.

#### ARTICLE 17.

Nations which have not signed this convention shall be permitted to adhere to it on request. Notice of such adhesion shall be given through diplomatic channels to the Belgian Government, and, by the latter, to each of the governments of the other contracting parties. It shall take effect one month after the notice given by the Belgian Government has been sent.

#### ARTICLE 18.

The present convention shall be ratified and the ratifications thereof shall be deposited at Brussels as soon as possible. At the expiration of a period of one year at most, counting from the date of signature of this convention, the Belgian Government shall enter into communication with the governments of the High Contracting Parties who have declared their readiness to ratify it, for the purpose of having the question decided whether there is occasion for putting it in force.

If so decided, the ratifications shall be deposited immediately and the convention shall take effect one month after such deposit. The protocol shall remain open one year longer to the nations represented at the Brussels conference. At the end of this period they shall only be allowed to adhere thereto in accordance with the provisions of Article 17.

ARTICLE 19.

In case one or another of the High Contracting Parties should denounce the present convention, such denunciation shall not take effect until one year after the date on which notice thereof has been given to the Belgian Government, and the convention shall remain in force among the other contracting parties.

In witness whereof, the Plenipotentiaries of the High Contracting Parties have signed the present convention and affixed thereto their seals.

Done at Brussels, in a single copy, the .....

The foregoing text was adopted at a session of the Brussels Conference held on October 5, 1909.

Certified to by the President of the Conference:

(Signed) A. BEERNAERT.

N. B. — The Delegations of the following-mentioned countries have declared their readiness to sign the foregoing text *ad referendum*, provided it is signed by the other governments represented at the Conference:

Germany, Argentine Republic, Austria, Hungary, Belgium, Brazil, Chile, Cuba, Denmark, Spain, United States of America, France, Great Britain, Greece, Italy, Japan, Mexico, Nicaragua, Norway, Netherlands, Portugal, Roumania, Russia, Sweden.

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CHINESE-JAPANESE AGREEMENTS.

*September 4, 1909.*

*The Manchurian Agreement.*

The Imperial Government of Japan and the Imperial Government of China, actuated by the desire to consolidate relations of amity and good neighborhood between the two countries by settling definitely matters of common concern in Manchuria and by removing for the future all cause of misunderstanding, have agreed upon the following stipulations:

Article I. — The Government of China engages that in the event of its undertaking to construct railway between Hsin-min-tun and Fa-kuman, it shall arrange previously with the Government of Japan.

Article II. — The Government of China recognizes that the railway between Tashichao and Yingkow is a branch line of the South Man-

churian Railway, and it is agreed that the said branch line shall be delivered up to China simultaneously with the South Manchurian Railway upon expiration of the term of concession for that main line. The Chinese Government further agrees to the extension of the said branch line to the port of Yingkow.

Article III. — In regard to coal mines of Fushun and Yuentai, the Governments of Japan and China are agreed as follows:

A. The Chinese Government recognizes right of the Japanese Government to work the said coal mines.

B. The Japanese Government, respecting the full sovereignty of China, engages to pay to the Chinese Government tax on coals produced in those mines. Rate of such tax shall be separately arranged on the basis of the lowest tariff for coals produced in any other places of China.

C. The Chinese Government agrees that, in the matter of exportation of coals produced in the said mines, the lowest tariff of export duty for coals of any other mines shall be applied.

D. The extent of the said coal mines as well as all the detailed regulations shall be separately arranged by commissioners specially appointed for that purpose.

Article IV. — All mines along the Antung-Mukden Railway and the main line of the South Manchurian Railway, excepting those at Fushun and Yuentai, shall be exploited as joint enterprises of Japanese and Chinese subjects upon the general principles which the Viceroy of Eastern Three Provinces and the Governor of Shingking Province agreed upon with the Japanese Consul-General in 1907, corresponding to the 33rd year of Kuanghsu. Detailed regulations in respect to such mines shall in due course be arranged by the Viceroy and the Governor with the Japanese Consul-General.

Article V. — The Government of Japan declares that it has no objection to extension of Peking-Mukden Railway to the city wall of Mukden. Practical measures for such extension shall be adjusted and determined by the local Japanese and Chinese authorities and technical experts.

In witness whereof the undersigned, duly authorized by their respective Governments, have signed and sealed the present agreement in duplicate in the Japanese and Chinese languages.

*The Korean Boundary Agreement.*

The Imperial Government of Japan and the Imperial Government of China, desiring to secure for Chinese and Korean inhabitants in the frontier region blessings of permanent peace and tranquillity, and considering it essential in the attainment of such desire that the two Governments should, in view of their relations of cordial friendship and good neighborhood, recognize the river Tumen as forming the boundary between China and Korea and should adjust all matters relating thereto in a spirit of mutual accommodation, have agreed upon the following stipulations:—

Article I. — The Governments of Japan and China declare that the river Tumen is recognized as forming the boundary between China and Korea, and that, in the region of the source of that river, the boundary line shall start from the boundary monument and thence follow the course of the stream Shih-Yi-Shwei.

Article II. — The Government of China shall, as soon as possible after the signing of the present agreement, open the following places to the residence and trade of foreigners, and the Government of Japan may there establish Consulates or branch offices of Consulates. The date of opening of such places shall be separately determined: Lung-Ching-tsun, Chutsz-Chie, Tou-tao-kou, Pai-Tsao-kou.

Article III. — The Government of China recognizes the residence of Korean people as heretofore on the agricultural lands lying north of the river Tumen. The limit of the district for such residence is shown in the annexed map.<sup>1</sup>

Article IV. — The Korean people residing on the agricultural lands within the mixed residence district to the north of the river Tumen shall submit to the laws of China and shall be amenable to jurisdiction of the Chinese local officials. Such Korean people shall be accorded by the Chinese authorities the equal treatment with Chinese subjects, and similarly in the matter of taxation and all other administrative measures they shall be placed on the equal footing with Chinese subjects. All cases, whether civil or criminal, relating to such Korean people shall be heard and decided by the Chinese authorities in accordance with the laws of China and in just and equitable manner. A Japanese Consular officer or an official duly authorized by him shall be allowed freely to attend the Court, and, in the hearing of important cases concerning lives of persons,

<sup>1</sup> Omitted.

a previous notice is to be given to the Japanese Consular officers. Whenever the Japanese Consular officers find that decision has been given in disregard to law, they shall have right to apply to the Chinese authorities for a new trial, to be conducted by officials specially selected in order to assure justice of decision.

Article V. — The Government of China engages that lands and buildings owned by Korean people in the mixed residence district to the north of the river Tumen shall be fully protected equally with properties of Chinese subjects. Ferries shall be established on the river Tumen at places properly chosen and people on either side of the river shall be entirely at liberty to cross to the other side, it being, however, understood that persons carrying arms shall not be permitted to cross the frontier without previous official notice or passports. In respect of cereals produced in the mixed residence district, Korean people shall be permitted to export them out of the said district except in time of scarcity, in which case such exportation may be prohibited. Collection of firewood and grass shall be dealt with in accordance with the practice hitherto followed.

Article VI. — The Government of China shall undertake to extend the Kirin-Changchun Railway to the southern boundary of Yenching and to connect it at Hoiryong with a Korean railway and such extension shall be effected upon the same terms as the Kirin-Changchun Railway. The date of commencing the work of proposed extension shall be determined by the Government of China considering actual requirement of the situation and upon consultation with the Government of Japan.

Article VII. — The present agreement shall come into operation immediately upon its signature and thereafter Chientao branch office of the Residency-General as well as all the civil and military officers attached thereto shall be withdrawn as soon as possible and within two months. The Government of Japan shall within two months hereafter establish its consulates at the places mentioned in Article II.

In witness whereof the undersigned duly authorized by their respective Governments have signed and sealed the present agreement in duplicate in the Japanese and Chinese languages.



NATURALIZATION CONVENTION BETWEEN THE UNITED STATES AND PERU.<sup>1</sup>

*Signed at Lima, October 15, 1907; Ratified by the President, March 9, 1908; Proclaimed, September 2, 1909.*

The United States of America and the Republic of Peru, desiring to regulate the citizenship of those persons who emigrate from the United States of America to Peru, and from Peru to the United States of America, have resolved to conclude a convention on this subject and for that purpose have appointed their Plenipotentiaries that is to say:

The President of the United States of America, Leslie Combs, Envoy Extraordinary and Minister Plenipotentiary of the United States at Lima; and

The President of Peru Señor Don Solón Polo, Minister for Foreign Relations of Peru, who have agreed to and signed the following articles.

## ARTICLE I.

Citizens of the United States who may be or shall have been naturalized in Peru upon their own application or by their own consent, will be considered by the United States as citizens of the Republic of Peru. Reciprocally, Peruvians who may or shall have been naturalized in the United States upon their own application or with their consent, will be considered by the Republic of Peru as citizens of the United States.

## ARTICLE II.

If a Peruvian, naturalized in the United States of America, renews his residence in Peru without intent to return to the United States, he may be held to have renounced his naturalization in the United States. Reciprocally if a citizen of the United States naturalized in Peru renews his residence in the United States without intent to return to Peru, he may be presumed to have renounced his naturalization in Peru.

The intent not to return may be held to exist when the person naturalized in the one country resides more than two years in the other country, but this presumption may be destroyed by evidence to the contrary.

## ARTICLE III.

It is mutually agreed that the definition of the word "citizen" as used in this convention shall be held to mean a person to whom nationality of the United States or of Peru attaches.

<sup>1</sup> U. S. Treaty Series, No. 532.

## ARTICLE IV.

A recognized citizen of the one party returning to the territory of the other remains liable to trial and legal punishment for any action punishable by the laws of his original country and committed before his emigration; but not for the emigration itself, saving always the limitation established by the laws of his original country and any other remission of liability to punishment.

## ARTICLE V.

The declaration of intention to become a citizen of the one or the other country has not for either party the effect of naturalization.

## ARTICLE VI.

The present convention shall go into effect immediately on the exchange of ratifications, and in the event of either party giving the other notice of its intention to terminate the convention it shall continue to be in effect one year more to count from the date of such notice.

The present convention shall be submitted to the approval and ratification of the respective appropriate authorities of each of the contracting parties, and the ratifications shall be exchanged at Lima within twenty-four months of the date thereof.

In witness whereof, the respective Plenipotentiaries have signed the above articles both in the English and Spanish languages, and have hereunto affixed their seals.

Done in duplicate at the city of Lima this fifteenth day of October one thousand nine hundred and seven.

LESLIE COMBS

*American Minister in Perú.* [SEAL]

SOLÓN POLO [SEAL.]

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ARBITRATION CONVENTION BETWEEN THE UNITED STATES AND PARAGUAY.<sup>1</sup>

*Signed at Asuncion, March 13, 1909; Ratified by the President, August 10, 1909; Proclaimed, November 11, 1909.*

The Government of the United States of America and the Government of the Republic of Paraguay, signatories of the convention for the pacific settlement of international disputes, concluded at The Hague on the 29th July, 1899;

Taking into consideration that by Article XIX of that Convention the

<sup>1</sup> U. S. Treaty Series, No. 534.

High Contracting Parties have reserved to themselves the right of concluding Agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment;

Have authorized the Undersigned to conclude the following Convention:

#### ARTICLE I.

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third parties.

#### ARTICLE II.

In each individual case the High Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and on the part of Paraguay shall be subject to the procedure required by her laws.

#### ARTICLE III.

The present Convention is concluded for a period of five years dating from the day of the exchange of the ratifications.

#### ARTICLE IV.

The present Convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of Paraguay, with the previous approval of the Legislative Congress. The ratifications shall be exchanged at Asuncion as soon as possible, and the Convention shall take effect on the date of the exchange of its ratifications.

Done in duplicate in the English and Spanish languages at Asuncion, this thirteenth day of March in the year one thousand nine hundred and nine.

EDWARD C. O'BRIEN [SEAL]

MANUEL GONDRA [SEAL]

ARBITRATION CONVENTION BETWEEN THE UNITED STATES AND HAITI.<sup>1</sup>

*Signed at Washington, January 7, 1909; Ratified by the President, March 1, 1909; Proclaimed, November 16, 1909.*

The Government of the United States of America, signatory of the two conventions for the Pacific Settlement of International Disputes, concluded at The Hague, respectively, on July 29, 1899, and October 18, 1907, and the Government of the Republic of Haiti, adherent to the said convention of July 29, 1899, and signatory of the said convention of October 18, 1907;

Taking into consideration that by Article XIX of the convention of July 29, 1899, and by Article XL of the convention of October 18, 1907, the High Contracting Parties have reserved to themselves the right of concluding Agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment;

Have authorized the Undersigned to conclude the following Convention:

## ARTICE I.

Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall, if not submitted to some other arbitral jurisdiction, be referred to the Permanent Court of Arbitration established at The Hague by the convention of July 29, 1899, for the pacific settlement of international disputes, and maintained by The Hague Convention of the 18th October, 1907; provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third Parties.

## ARTICLE II.

In each individual case the High Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special Agreement, defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and on the part of Haiti shall be subject to the procedure required by the Constitution and laws thereof.

<sup>1</sup> U. S. Treaty Series, No. 535.

## ARTICLE III.

The present Convention is concluded for a period of five years and shall remain in force thereafter until one year's notice of termination shall be given by either party.

## ARTICLE IV.

The present Convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of Haiti in accordance with the Constitution and laws thereof. The ratifications shall be exchanged at Washington as soon as possible, and the Convention shall take effect on the date of the exchange of its ratifications.

Done in duplicate in the English and French languages at Washington, this 7th day of January, in the year one thousand nine hundred and nine.

ELIHU ROOT [SEAL]

J. N. LÉGER [SEAL]

PROTOCOL BETWEEN URUGUAY AND ARGENTINE DEALING WITH THE  
QUESTION OF THE JURISDICTION OF THE RIVER PLATE.

Dr. Gonzalo Ramirez, Envoy Extraordinary and Minister Plenipotentiary duly authorized by the Government of the Oriental Republic of Uruguay, and Dr. Roque Saénz Peña, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Argentina on special mission, duly authorized by his government, after a friendly exchange of views and without prejudice to ulterior connections between the two nations, being met to-day in the salon of the Ministry of Foreign Affairs, declare:

1. The sentiment and aspirations of both peoples are reciprocal in the desire to cultivate and maintain the ancient relations of friendship, fortified by the common origin of the two nations.

2. With the object of giving greater efficacy to the declaration which precedes, and eliminating any resentment which might have remained as a result of past differences, the signatories agree that these differences, not having been capable of causing or inferring offence, are to be considered as incapable of duration and in no respect as diminishing the spirit of harmony which animates the two countries or the considerations which mutually unite them.

3. The navigation and use of the waters of the River Plate will continue without alteration as up to the present, and whatever difference

may arise in this connection will be removed and resolved in the same spirit of cordiality and harmony which has always existed between the two countries.

Signed and sealed in duplicate, in the city of Montevideo, capital of the Oriental Republic of Uruguay, the sixth day of January, nineteen hundred and ten.

GONZALO RAMIREZ (L. S.)

ROQUE SAÉNZ PEÑA (L. S.)

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TREATY OF AMITY, COMMERCE AND NAVIGATION BETWEEN THE EMPIRE  
OF JAPAN AND THE COLOMBIAN REPUBLIC.

*May 25, 1908.*

His Majes.y the Emperor of Japan and His Excellency the President of the Colombian Republic, being equally animated by a desire to establish upon a firm and lasting foundation relations of friendship and commerce between their respective States and subjects and citizens, have resolved to conclude a Treaty of Amity, Commerce and Navigation, and have for that purpose named their respective Plenipotentiaries, that is to say:

His Majesty the Emperor of Japan, Baron Takahira Kogoro. Shosammi, 1st Class Order of the Rising Sun, His Ambassador Extraordinary and Plenipotentiary near the Government of the United States of America; and

His Excellency the President of the Colombian Republic, Senor Don Enrique Cortes, Envoy Extraordinary and Minister Plenipotentiary of the Colombian Republic near the Government of the United States of America;

Who, having communicated to each other their respective full powers, and found them in good and due form, have agreed upon the following articles:

ARTICLE I.

There shall be firm and perpetual peace and amity between the Empire of Japan and the Colombian Republic, and their respective subjects and citizens.

ARTICLE II.

His Majesty the Emperor of Japan may, if he think proper, accredit a Diplomatic Agent to the Government of the Colombian Republic; and, in like manner, His Excellency the President of the Colombian Republic

may, if he see fit, accredit a Diplomatic Agent to the Court of Tokio; and each of the High Contracting Parties shall have the right to appoint Consuls-General, Consuls, Vice-Consuls and Consular Agents, for the convenience of trade, to reside in all the ports and places within the territories of the other Contracting Party where similar Consular officers of other nations are permitted to reside; but before any Consul-General, Consul, Vice-Consul or Consular Agent shall act as such he shall, in the usual form, be approved and admitted by the Government to which he is sent.

The Diplomatic and Consular officers of each of the two High Contracting Parties shall, subject to the rule of reciprocity, enjoy in the territories of the other whatever rights, privileges, exemptions and immunities, are or shall be granted there to officers of corresponding rank of any European country or of the United States of America.

#### ARTICLE III.

There shall be between the Territories and Possessions of the two High Contracting Parties reciprocal freedom of commerce and navigation. The subjects and citizens, respectively, of each of the High Contracting Parties shall have the right to come freely and securely with their ships and cargoes to all places, ports, rivers and straits in the Territories and Possessions of the other, where subjects or citizens of other nations are permitted so to come; they may remain and reside at all the places or ports where subjects or citizens of other nations are permitted to remain and reside, and they may there hire and occupy houses and warehouses, and may there trade by wholesale or retail in all kinds of products, manufactures and merchandise of lawful commerce.

#### ARTICLE IV.

The two High Contracting Parties hereby agree that any favor, privilege or immunity whatever in matters relating to commerce, navigation, trade, occupation, travel through or residence in their Territories or Possessions which either Contracting Party has actually granted, or may hereafter grant to the subjects or citizens of any European country or of the United States of America, exclusive of colonial subjects or citizens, shall be extended to the subjects or citizens of the other Contracting Party, gratuitously, if the concession in favor of that European country or the United States of America shall have been gratuitous, and on the same, or equivalent condition, if the concession shall have been conditional.

## ARTICLE V.

No other or higher duties shall be imposed on the importation into Japan of any article, the growth, produce or manufacture of the Colombian Republic, and no other or higher duties shall be imposed on the importation into the Colombian Republic of any article, the growth, produce or manufacture of Japan, whether such importation be for the purpose of consumption, warehousing, re-exportation or transit, than are or shall be payable on the importation for the same purpose of the like article being the growth, produce or manufacture of any European country or of the United States of America.

Nor shall any other or higher duties or charges be imposed in the Territories or Possessions of either of the two High Contracting Parties on the exportation of any article to the Territories or Possessions of the other than such as are or may be payable on the exportation of the like article to any European country or the United States of America. No prohibition shall be imposed on the importation or transit of any article, the growth, produce or manufacture of the Territories of either of the High Contracting Parties into or through Territories or Possessions of the other, which shall not equally extend to the like article being the growth, produce or manufacture of any European country or of the United States of America. Nor shall any prohibition be imposed on the exportation of any article from the Territories or Possessions of either of the High Contracting Parties to the Territories or Possessions of the other, which shall not equally extend to the exportation of the like article to the territories of all European countries and the United States of America.

## ARTICLE VI.

In all that relates to transit, warehousing, bounties, facilities, drawbacks, re-exports and transit duties, the subjects, citizens, merchandise and shipping of each of the High Contracting Parties, shall, in the Territories and Possessions of the other, be placed in all respects upon the same footing as the subjects, citizens, merchandise and shipping of European countries and the United States of America.

## ARTICLE VII.

No other or higher duties or charges on account of tonnage, light or harbor dues, pilotage, quarantine, salvage in case of damage, or any other similar or corresponding duties or charges of whatever nature or under whatever denomination levied in the name or for the profit of



Government, public functionaries, private individuals, corporations or establishments, shall be imposed in any of the ports, rivers or straits of Japan on vessels of the Colombian Republic, or in any of the ports, rivers or straits of the Colombian Republic on vessels of Japan, than are or may hereafter be payable in like cases in the same ports, rivers and straits on vessels of European countries or the United States of America.

#### ARTICLE VIII.

The coasting trade of both the High Contracting Parties is excepted from the provisions of the present Treaty, and shall be regulated according to the laws of Japan and the Colombian Republic respectively.

#### ARTICLE IX.

All vessels which, according to Japanese laws and ordinances, are to be deemed Japanese vessels, and all vessels which, according to Colombian laws and regulations, are to be deemed Colombian vessels, shall, for the purposes of this Treaty, be deemed Japanese and Colombian vessels, respectively.

#### ARTICLE X.

The subjects and citizens of each of the High Contracting Parties shall, in the Territories and Possessions of the other, reciprocally receive and enjoy the same full and perfect protection for their persons and property that is granted to native subjects or citizens, and they shall have free and open access to the Courts of Justice in said countries, respectively, for the prosecution and defense of their just rights; and they shall, equally with native subjects or citizens, be at liberty to employ advocates, attorneys or agents to represent them before such courts of justice.

They shall also enjoy entire liberty of conscience, and subject to the laws for the time being in force, shall enjoy the right of private or public exercise of their worship, and also the right of burying their respective countrymen according to their religious customs in such suitable and convenient places as may be established and maintained for the purpose subject to the regulations in force.

#### ARTICLE XI.

In regard to billeting; forced or compulsory military service, whether by land or sea; contributions of war; military exactions or forced loans, the subjects and citizens of each of the two High Contracting Parties, shall, in the Territories and Possessions of the other, enjoy the same

privileges, immunities and exemptions as may now or may hereafter be granted to the subjects or citizens of European countries or of the United States of America.

ARTICLE XII.

The present Treaty shall go into operation immediately after the exchange of ratifications, and shall continue in force until the expiration of six (6) months after either of the High Contracting Parties shall have given notice to the other of its intention to terminate the same, and no longer.

ARTICLE XIII.

The present Treaty shall be signed in duplicate in the Japanese, Spanish and English languages, and in case there should be found any discrepancy between the Japanese and Spanish texts, it will be decided in conformity with the English text, which is binding upon both Governments.

ARTICLE XIV.

The present treaty shall be ratified by the two High Contracting Parties and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed this treaty and hereunto affixed their respective seals.

Done in sextuplicate at Washington, this twenty-fifth day of the fifth month of the forty-first year of Meiji, corresponding to the twenty-fifth day of May of the year one thousand nine hundred and eight.

K. TAKAHIRA. (L. S.)

ENRIQUE CORTES. (L. S.)

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CONVENTION FOR INTERNATIONAL PROTECTION OF INDUSTRIAL PROPERTY.

*Concluded at Paris March 20, 1883; ratified by the President March 29, 1887; accession announced to Swiss Confederation May 30, 1887; proclaimed June 11, 1887.<sup>1</sup>*

His Majesty the King of the Belgians; His Majesty the Emperor of Brazil; His Majesty the King of Spain; The President of the French Republic; The President of the Republic of Guatemala; His Majesty

<sup>1</sup> Adhered to by Great Britain, Tunis, Ecuador, the Dutch East India Colonies, Dominican Republic, Curacao, Surinam, New Zealand, Queensland, Germany, and Mexico.

the King of Italy; His Majesty the King of the Netherlands; His Majesty the King of Portugal and the Algarves; The President of the Republic of Salvador; His Majesty the King of Servia; the Federal Council of the Swiss Confederation;

Equally animated by the desire to assure, by common accord, a complete and efficacious protection to the industry and commerce of the subjects of their respective states and to contribute to the safeguard of the rights of inventors, and to the loyalty of commercial transactions, have resolved to conclude a Convention to that effect, and have named as their Plenipotentiaries the following:

His Majesty the King of the Belgians: Baron Beyens, Grand Officer of His Royal Order of Leopold, Grand Officer of the Legion of Honor, etc., His Envoy Extraordinary and Minister Plenipotentiary at Paris;

His Majesty the Emperor of Brazil: Mr. Jules Constant, Count de Villeneuve, Member of the Council of His Majesty, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians, Commander of the Order of Christ, Officer of His Order of the Rose, Knight of the Legion of Honor, etc.;

His Majesty the King of Spain: His Excellency the Duke de Fernan Nunez, de Montellano, and Del Arco, Count de Cervellon, Marquis of Almonacir, Grandee of Spain of the 1st Class, Knight of the distinguished Order of the Golden Fleece, Grand Cross of the Order of Charles III, Knight of Calatrava, Grand Cross of the Legion of Honor, etc., Senator of the Kingdom, His Ambassador Extraordinary and Plenipotentiary at Paris;<sup>2</sup>

The President of the French Republic: Mr. Paul Challemel Lacour, Senator, Minister of Foreign Affairs; Mr. Hérisson, Deputy, Minister of Commerce; Mr. Charles Jagerschmidt, Minister Plenipotentiary of 1st Class, Officer of the National Order of the Legion of Honor;<sup>3</sup>

The President of the Republic of Guatemala: Mr. Crisanto Medina, Officer of the Legion of Honor, etc., His Envoy Extraordinary and Minister Plenipotentiary at Paris;

<sup>2</sup> Including Cuba, Porto Rico, and the Philippines

<sup>3</sup> Including Martinique, Guadeloupe and dependencies, Reunion and dependency (Saint Mary of Madagascar), Cochin-China, St. Pierre, Miquelon, Guiana, Senegal and dependencies (Rivières du Sud, Grand Bassam, Assinie, Porto Novo and Kotonou), the Congo and of the Gaboon, Mayotte, Nossi-Bé, the French Establishments in India (Pondicherry, Chandernagore, Karikal, Mahé, Yanaon), New Caledonia, the French Establishments in Oceanica (Tahiti and dependencies), Obock and Diégo-Suarez.

His Majesty the King of Italy: Mr. Constantin Ressman, Commander of his orders at St. Maurice and St. Lazarus, and of the Crown of Italy, Commander of the Legion of Honor, etc., Counsellor of the Embassy of Italy at Paris;

His Majesty the King of the Netherlands: Baron de Zuylen de Nyevelt, Commander of His order of the Lion of the Netherlands, Grand Cross of His Grand Ducal Order of the Oaken Crown and of the Golden Lion of Nassau, Grand Officer of the Legion of Honor, etc., His Envoy Extraordinary and Minister Plenipotentiary at Paris;

His Majesty the King of Portugal and the Algarves: Mr. José da Silva Mendes Leal, Counsellor of State, Peer of the Kingdom, Minister and Honorary Secretary of State, Grand Cross of the Order of St. James, Knight of the Order of the Tower and of the Sword of Portugal, Grand Officer of the Legion of Honor, etc., His Envoy Extraordinary and Minister Plenipotentiary at Paris; Mr. Fernand de Azevedo, Officer of the Legion of Honor, etc., First Secretary of the Legation of Portugal at Paris; <sup>4</sup>

The President of the Republic of Salvador: Mr. Torres Caicedo, Corresponding Member of the Institute of France, Grand Officer of the Legion of Honor, etc., His Envoy Extraordinary and Minister Plenipotentiary at Paris; <sup>5</sup>

His Majesty the King of Servia: Mr. Sima M. Marinovitch, Chargé d'Affaires ad interim of Servia, Knight of the Royal Order of Takova, etc.;

And the Federal Council of the Swiss Confederation: Mr. Charles Edward Lardy, its Envoy Extraordinary and Minister Plenipotentiary at Paris; Mr. J. Weibel, Engineer at Geneva, President of the Swiss Section of the Permanent Commission for the protection of Industrial Property.

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following Articles:

#### ARTICLE I.

The Governments of Belgium, of Brazil, of Spain, of France, of Guatemala, of Italy, of the Netherlands, of Portugal, of Salvador, of Servia and of Switzerland, have constituted themselves into a state of Union for the protection of Industrial Property.

<sup>4</sup> Including the Azores and Madeira.

<sup>5</sup> Salvador withdrew August 17, 1887.

## ARTICLE II.

The subjects or citizens of each of the contracting States shall enjoy, in all the other States of the Union, so far as concerns patents for inventions, trade or commercial marks, and the commercial name, the advantages that the respective laws thereof at present accord, or shall afterwards accord to subjects or citizens. In consequence they shall have the same protection as these latter, and the same legal recourse against all infringements of their rights, under reserve of complying with the formalities and conditions imposed upon subjects or citizens by the domestic legislation of each State.

## ARTICLE III.

Are assimilated to the subjects or citizens of the contracting States, the subjects or citizens of States not forming part of the Union, who are domiciled or have industrial or commercial establishments upon the territory of one of the States of the Union.

## ARTICLE IV.

Any one who shall have regularly deposited an application for a patent of invention, of an industrial model, or design, of a trade or commercial mark, in one of the contracting States, shall enjoy for the purpose of making the deposit in the other States, and under reserve of the rights of third parties, a right of priority during the periods hereinafter determined.

In consequence, the deposit subsequently made in one of the other States of the Union, before the expiration of these periods can not be invalidated by acts performed in the interval, especially by another deposit, by the publication of the invention or its working by a third party, by the sale of copies of the design or model, by the employment of the mark.

The periods of priority above mentioned shall be six months for patents of invention and three months for designs or industrial models, as well as for trade or commercial marks. They shall be augmented by one month for countries beyond the seas.

## ARTICLE V.

The introduction by the patentee into countries where the patent has been granted, of articles manufactured in any other of the States of the Union, shall not entail forfeiture.

The patentee, however, shall be subject to the obligation of working his patent conformably to the laws of the country into which he has introduced the patented articles.

#### ARTICLE VI.

Every trade or commercial mark regularly deposited in the country of origin shall be admitted to deposit and so protected in all the other countries of the Union.

Shall be considered as country of origin, the country where the depositor has his principal establishment.

If this principal establishment is not situated in one of the countries of the Union, shall be considered as country of origin that to which the depositor belongs.

The deposit may be refused, if the object, for which it is asked, is considered contrary to morals and to public order.

#### ARTICLE VII.

The nature of the production upon which the trade or commercial mark is to be affixed can not in any case be an obstacle to the deposit of the mark.

#### ARTICLE VIII.

The commercial name shall be protected in all the countries of the Union without obligation of deposit, whether it forms part or not, of a trade or commercial mark.

#### ARTICLE IX.

Every production bearing unlawfully a trade or commercial mark, or a commercial name, may be seized upon importation into those of the States of the Union in which such mark or such commercial name has a right to legal protection.

The seizure shall take place either at the instance of the public prosecutor or of the interested party, conformably to the domestic legislation of each State.

#### ARTICLE X.

The provisions of the preceding article shall be applicable to every production bearing falsely as indication of origin, the name of a stated locality, when this indication shall be joined to a fictitious commercial name or a name borrowed with fraudulent intention.

Is reputed interested party every manufacturer or trader engaged in the manufacture or sale of this production, when established in the locality falsely indicated as the place of export.

## ARTICLE XI.

The High Contracting parties engage between themselves to accord a temporary protection to patentable inventions, to industrial designs or models as well as to trade or commercial marks for the productions, which may figure at official or officially recognized International Exhibitions.

## ARTICLE XII.

Each one of the High-Contracting parties engage to establish a special service of Industrial Property and a Central Depot, for giving information to the public concerning patents of invention, industrial designs or models and trade or commercial marks.

## ARTICLE XIII.

An International Office shall be organized under the title of "International Bureau of the Union for the Protection of Industrial Property."

This Bureau, the cost of which shall be supported by the Governments of all the contracting States, shall be placed under the high authority of the Superior Administration of the Swiss Confederation, and shall work under its supervision. Its powers shall be determined by common accord between the States of the Union.

## ARTICLE XIV.

The present convention shall be submitted to periodical revisions for the purpose of introducing improvements calculated to perfect the system of the Union.

With this object, Conferences shall take place successively in one of the Contracting States between the delegates of said States.

The next meeting shall take place in 1885 at Rome.

## ARTICLE XV.

It is understood that the High Contracting parties respectively reserve the right to make, separately, between themselves, special arrangements for the protection of industrial property, so far as these arrangements shall not interfere with the provisions of the present convention.

## ARTICLE XVI.

The States that have not taken part in the present convention shall be admitted to adhere to the same upon their application.

This adhesion shall be notified through the diplomatic channel to the Government of the Swiss Confederation and by the latter to all the others.

It shall convey, of full right, accession to all the clauses and admission to all the advantages stipulated by the present convention.

ARTICLE XVII.

The execution of the reciprocal engagements continued in the present convention is subordinated so far as needful, to the accomplishment of the formalities and rules established by the Constitutional laws of such of the High Contracting parties as are bound to ask the application thereof, which they agree to do within the shortest delay possible.

ARTICLE XVIII.

The present convention shall be put into execution within a month after exchange of ratifications, and shall remain in force during a period of time not determined, until the expiration of one year from the day upon which the denunciation shall be made.

This denunciation shall be addressed to the Government empowered to receive adhesions. It shall only produce its effect as regards the State making it, the convention remaining executory for the other contracting parties.

ARTICLE XIX.

The present Convention shall be ratified and the ratifications shall be exchanged at Paris, within the period of one year at the latest.

In witness whereof the respective Plenipotentiaries have signed it and affixed to it their seals.

Done at Paris the 20th of March, 1883.

(Signed)	BEYENS.
"	VILLENEUVE.
"	DUC DE FERNAN-NUÑEZ.
"	P. CHALLEMEL-LACOUR.
"	CH. HÉRISSON.
"	CH. JAGERSCHMIDT.
"	CRISANTO MEDINA.
"	RESSMAN.
"	BARON DE ZUYLEN DE NYEVELT.
"	JOSÉ DA SILVA MENDES LEAL.
"	F. D'AZEVEDO.
"	J. M. TORRES-CAICEDO.
"	SIMA M. MARINOVITCH.
"	LARDY.
"	J. WEIBEL.



## 3rd Article.

In introducing a Convention of the Convention mentioned this Convention is intended to be signed by Belgium, Brazil, Spain, France, Germany, Italy, the Netherlands, Portugal, Sweden, Serbia and Switzerland, for the protection of industrial property, the undersigned Plenipotentiaries have signed on the following:

1. The words industrial property are to be understood in their widest application in the sense that they apply not only to the inventions of industrial property as called for equally to the inventions of agriculture and of fishing, of the arts and to mineral productions used in commerce, mineral waters, etc.

2. Under the same terms of inventions are included the various classes of industrial patents granted by the laws of the contracting States and patents of industrial property of improvement, etc.

3. It is understood that the final provision of article 1 of the Convention shall be in respect of things upon the laws of each of the contracting States and for the conduct of the procedure before the courts and the enforcement of the said courts.

4. Paragraph 2 of article 1 is to be understood in the sense that no trade or commercial mark shall be excluded from protection in one of the States of the Union in the mere fact that it may not satisfy, in respect to the signs composing it the conditions of the laws of the State provided that it does satisfy, in this regard, the laws of the country of origin and that it has been in this latter country, duly deposited, during the periodical when concerns only the form of the mark and under reservation of the provisions of the other articles of the Convention, the commercial reputation of each of the States shall receive its due application.

In order to avoid all misinterpretation it is understood that the use of purely national markings and designations may be considered contrary to good order in the sense of the final paragraph of article 4.

5. The organization of a special service of Industrial Property mentioned in article 12 shall include, as far as is possible, the publication in each State of an official periodical.

6. The common expenses of the International Bureau created by article 13, shall in no case exceed yearly a sum-total representing a met. of 2000 francs for each contracting State.<sup>1</sup>

<sup>1</sup> See Convention of 1891, page 153.

In order to determine the contributory share of each of the States in this sum-total of expenses, the contracting States, and those who may hereafter adhere to the Union, shall be divided into six classes, each contributing in the proportion of a certain number of units, namely:

1st class.....	25 units.
2d " .....	20 "
3d " .....	15 "
4th " .....	10 "
5th " .....	5 "
6th " .....	3 "

These coefficients shall be multiplied by the number of the States of each class, and the sum of the products thus obtained shall furnish the number of units by which the total expense is to be divided. The quotient will give the amount of the unit of expense.

The contracting States are classified as follows in respect to the division of the expenses.

- 1st class. — France, Italy.
- 2d " — Spain.
- 3d " — Belgium, Brazil, Portugal, Switzerland.
- 4th " — Netherlands.
- 5th " — Servia.
- 6th " — Guatemala, Salvador.

The Swiss Government shall supervise the expenditure of the International Bureau, make the necessary advances, and state the annual account, which shall be communicated to all the other Governments.

The International Bureau shall collect information of every kind relating to the protection of Industrial Property and shall compile from it general statistics which shall be transmitted to all the Governments. It shall occupy itself with examinations of general utility which may be of interest to the Union, and shall publish, with the assistance of the documents put at its disposal by the various Governments, a periodical in the French language on questions which concern the object of the Union.

The numbers of this periodical and all the documents published by the International Bureau shall be partitioned among the Governments of the States of the Union in proportion of the number of contributory units above mentioned.

The copies and supplementary documents which may be requested either by the said Governments, or by corporations or private persons, shall be paid for separately.

The International Bureau must always hold itself at the disposal of the members of the Union, in order to furnish them, on questions relating to the international service of Industrial Property, with such special information as they may need.

The Government of the country where the next Conference is to be held shall prepare, with the assistance of the International Bureau, the work of the said Conference.

The director of the International Bureau shall be present at the sessions of the Conferences, and shall take part in the discussions without voting.

He shall make an annual report on its management, which shall be communicated to all the members of the Union.

The official language of the International Bureau shall be the French language.

7. The present final protocol, which shall be ratified at the same time as the Convention concluded this day, shall be considered as forming an integral part of that Convention, and shall have the same force, value and duration.

In faith whereof the undersigned plenipotentiaries have drawn up the present protocol.

(Signed)	BEYENS.
"	VILLENEUVE.
"	DUC DE FERNAN-NUÑEZ.
"	P. CHALLEMEL-LACOUR.
"	CH. HÉRISSON.
"	CH. JAGERSCHMIDT.
"	CRISANTO MEDINA.
"	RESSMAN.
"	BARON DE ZUYLEN DE NYEVELT.
"	JOSÉ DA SILVA MENDES LEAL.
"	F. D'AZEVEDO.
"	J. M. TORRES-CAICEDO.
"	SIMA M. MARINOVITCH.
"	LARDY.
"	J. WEIBEL.

## SUPPLEMENTARY CONVENTION.

*Concluded at Madrid April 15, 1891; ratified by the President March 20, 1892; proclaimed June 22, 1892.*

*Third Protocol.*

Protocol concerning the dotation of the International Bureau of the Union for the protection of Industrial Property between Belgium, Brazil, Spain, the United States of America, France, Great Britain, Guatemala, Italy, Norway, The Netherlands, Portugal, Sweden, Switzerland and Tunis.

The undersigned Plenipotentiaries of the Governments above named,

In view of the declaration adopted March 12, 1883, by the International Conference for the Protection of Industrial Property convened at Paris,

Have, with one accord and subject to ratification, concluded the following protocol:

## ARTICLE 1.

The first paragraph of No. 6 of the final Protocol annexed to the International Convention of March 20, 1883, for the protection of Industrial Property is annulled and replaced by the following provision.

The expenses of the International Bureau instituted by Article 13 shall be supported by the contracting States in common. They can not in any event exceed the sum of sixty thousand francs per annum.

## ARTICLE 2.

The present Protocol shall be ratified, and the ratifications thereof shall be exchanged at Madrid within a period of six months at the latest.

It shall take effect one month after the exchange of ratifications, and shall have the same force and duration as the Convention of March 20, 1883, of which it shall be considered as forming an integral part.

In testimony whereof, the Plenipotentiaries of the States above named have signed the present Protocol at Madrid, the fifteenth day of April, one thousand eight hundred and ninety-one.

For Belgium, Th. De Bounder De Melsbroeck.

“ Brazil, Luis F. D’Abreu.

“ Spain, S. Moret, Marquis de Aguilar, Enrique Calleja, Luis Mariano de Larra.

“ The United States of America, E. Burd Grubb.

“ France and Tunis, P. Camnon.

For Great Britain, Francis Clare Ford.

" Guatemala, J. Carrera.

" Italy, Maffei.

" Norway, Arild Huitfeldt.

" The Netherlands, Gericke.

" Portugal, Count de Casal Ribeiro.

" Sweden, Arild Huitfeldt.

" Switzerland, Ch. E. Lardet.

" " Morel.

*(Resolution of the Senate advising and consenting to the ratification.)*

IN EXECUTIVE SESSION, SENATE OF THE UNITED STATES,

*March 2, 1892.*

*Resolved (two-thirds of the Senators present concurring therein)*  
That the Senate advise and consent to the ratification of Protocols 3 and 4,<sup>7</sup> signed at Madrid, April 15, 1891, by the United States and other powers, amendatory to the Convention of March 20, 1883, for the protection of Industrial Property, subject to the reservation of the Plenipotentiary of the United States in the International Conference for the protection of Industrial Property at Madrid, as follows:

The share allotted to the United States to contribute to the dotation of the International Bureau is not to be augmented until the Congress of the United States shall have approved the augmentation.

That articles three and four of the fourth Protocol shall not go beyond what shall be established by the legislation of the United States.

Attest:

ANSON G. MCCOOK,

SECRETARY.

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ADDITIONAL ACT CONCLUDED AT BRUSSELS FOR THE PROTECTION OF  
INDUSTRIAL PROPERTY.

*Concluded December 14, 1900; ratified by President April 16, 1901,  
proclaimed August 25, 1902.*

His Majesty the King of the Belgians; the President of the United States of Brazil; his Majesty the King of Denmark; the President of the Dominican Republic; His Majesty the King of Spain, and in his name,

<sup>7</sup> Ratification of Protocol 4 not exchanged. Protocol referred to next conference, to be held at Brussels.

Her Majesty the Queen Regent of the Kingdom; The President of the United States of America; The President of the French Republic; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; His Majesty the King of Italy; His Majesty the Emperor of Japan; Her Majesty the Queen of the Netherlands; His Majesty the King of Portugal and the Algarves; His Majesty the King of Servia; His Majesty the King of Sweden and Norway; The Federal Council of the Swiss Confederation; The Government of Tunis, having deemed it useful to make certain modifications and additions to the International Convention of March 20, 1883, as well as to the Final Protocol Annexed to said Convention, have named for their Plenipotentiaries the following:

His Majesty the King of the Belgians: Mr. A. Nyssens, former Minister of Industry and of Labor; Mr. L. Capelle, Envoy Extraordinary and Minister Plenipotentiary, Director General of Commerce and of Consulates in the Ministry of Foreign Affairs; Mr. Georges de Ro, Advocate at the Court of Appeals of Brussels, former Secretary of the order; Mr. J. Dubois, Director General in the Ministry of Industry and Labor.

The President of the United States of Brazil: Mr. da Cunha, Envoy Extraordinary and Minister Plenipotentiary of the United States of Brazil near His Majesty the King of the Belgians.

His Majesty the King of Denmark: Mr. H. Holten-Nielsen, Member of the Patent Commission, Registrar of Trade-Marks.

The President of the Dominican Republic: Mr. J. W. Hunter, Consul-General of the Dominican Republic at Antwerp.

His Majesty the King of Spain, and, in His name, Her Majesty the Queen Regent of the Kingdom: Mr. de Villa Urrutia, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians.

The President of the United States of America: Mr. Lawrence Townsend, Envoy Extraordinary and Minister Plenipotentiary of the United States of America near His Majesty the King of the Belgians; Mr. Francis Forbes; Mr. Walter H. Chamberlin, Assistant Commissioner of Patents.

The President of the French Republic: Mr. Gérard, Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians; Mr. C. Nicolas, Former Councillor of State, Honorary Director at the Ministry of Commerce, of Industry, of Posts and Telegraphs; Mr. Michel Pelletier, Advocate at the Court of Appeal of Paris.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India: The Right Honorable C. B. Stuart Wortley, M. P.; Sir Henry Bergne, K. C. M. G., Chief of the Commercial Department at the Foreign Office; Mr. C. N. Dalton, C. B., Comptroller General of Patents.

His Majesty the King of Italy: Mr. Romeo Cantagalli, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians; Commander Carlo-Francesco Gabba, Senator, Professor at the University of Pisa; Chevalier Samuele Ottolenghi, Chief of Division at the Ministry of Agriculture, of Industry and of Commerce, Director of the Bureau of Industrial Property.

His Majesty the Emperor of Japan: Mr. Itchiro Motono, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians.

Her Majesty the Queen of the Netherlands: Mr. F. W. J. G. Snyder van Wissenkerke, Doctor of Laws, Councillor at the Ministry of Justice, Director of the Bureau on Industrial Property.

His Majesty the King of Portugal and of the Algarves: Councillor E. Madeira Pinto, Director General at the Ministry of Public Works, of Commerce and Industry.

His Majesty the King of Servia: Dr. Michel Vouitch, His Envoy Extraordinary and Minister Plenipotentiary at Paris.

His Majesty the King of Sweden and Norway: Count Wrangel, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians.

The Federal Council of the Swiss Confederation: Mr. J. Borel, Consul General of the Swiss Confederation at Brussels; Doctor Louis-Rodolphe de Salis, Professor at Berne.

The President of the French Republic, for Tunis: Mr. Gérard, Envoy Extraordinary and Minister Plenipotentiary near his Majesty the King of the Belgians; Mr. Bladé, Consul of the 1st Class at the Ministry of Foreign Affairs of France.

Who, after having communicated to each other their full powers, found to be in good and due form, have agreed upon the following articles:

#### ARTICLE 1.

The International Convention of March 20, 1883, is modified as follows:

I. Article 3 of the Convention shall read as follows:

Art. 3. Are assimilated to the subjects or citizens of the contracting States, the subjects or citizens of States not forming part of the Union, who are domiciled or have bona fide industrial or commercial establishments upon the territory of one of the States of the Union.

II. Article 4 shall read as follows:

Art. 4. Any one who shall have regularly deposited an application for a patent of invention, of an industrial model, or design, of a trade or commercial mark, in one of the contracting States, shall enjoy for the purpose of making the deposit in the other States, and under reserve of the rights of third parties, a right of priority during the periods hereinafter mentioned.

In consequence, the deposit subsequently made in one of the other States of the Union before the expiration of these periods cannot be invalidated by acts performed in the interval, especially by another deposit, by the publication of the invention or its working, by the sale of copies of the design or model, by the employment of the mark.

The periods of priority above mentioned shall be twelve months for patents of invention and four months for designs or industrial models, as well as for trade or commercial marks.

III. There is inserted in the Convention an article 4 *bis*, as follows:

Art. 4 *bis*. Patents applied for in the different contracting States by persons admitted to the benefit of the convention under the terms of articles 2 and 3 shall be independent of the patents obtained for the same invention in the other States adherents or non-adherents to the Union.

This provision shall apply to patents existing at the time of its going into effect.

The same rule applies, in the case of adhesion of new States, to patents already existing on both sides at the time of the adhesion.

IV. There are added to Article 9 two paragraphs, as follows:

In the States whose legislation does not admit of seizure on importation, such seizure may be replaced by prohibition of importation.

The authorities shall not be required to make the seizure in case of transit.

V. Article 10 shall read as follows:

Art. 10. The provisions of the preceding article shall be applicable to every production bearing falsely as indication of origin, the name of a stated locality when this indication shall be joined to a fictitious commercial name or a name borrowed with fraudulent intention.



Is reputed interested party every producer, manufacturer, or trader engaged in the production, the manufacture, or the sale of this production when established either in the locality falsely indicated as place of origin, or in the region where that locality is situated.

VI. There is inserted in the Convention an article 10 *bis*, as follows:

Article 10 *bis*. Those entitled of right under the Convention (art. 2 and 3), shall enjoy, in all the States of the Union, the protection accorded to citizens or subjects against unfair competition.

VII. Article 11 shall read as follows:

Art. 11. The high contracting parties shall accord conformably to the legislation of each country a temporary protection to patentable inventions, to industrial designs, or models, as well as to trade-marks for the productions which shall be shown at official or officially recognized International Expositions organized upon the territory of one of them.

VIII. Article 14 shall read as follows:

Art. 14. The present Convention shall be submitted to periodical revision for the purpose of introducing improvements calculated to perfect the system of the Union.

With this object conferences shall take place successively in one of the contracting States between the delegates of said States.

IX. Article 16 shall read as follows:

Art. 16. The States that have not taken part in the present convention shall be admitted to adhere to the same upon their application.

This adhesion shall be notified thorough the diplomatic channel to the Government of the Swiss Confederation and by the latter to all the others.

It shall convey of full right, accession to all the clauses, and admission to all the advantages stipulated by the present convention, and shall go into force a month after the sending of the notification given by the Swiss Government to the Unionist States, unless a later date shall have been indicated by the adhering State.

#### ARTICLE 2.

The Final Protocol annexed to the International Convention of March 20, 1883, is completed by the addition of a number 3 *bis*, as follows:

Art. 3 *bis*. The patentee, in each country, shall not suffer forfeiture because of non-working until after a minimum period of three years, to date from the deposit of the application in the country concerned, and in the case where the patentee shall not justify the reasons of his inaction.

## ARTICLE 3.

The present Additional Act shall have the same force and duration as the Convention of March 20, 1883.

It shall be ratified and the ratification shall be deposited at the Ministry of Foreign Affairs at Brussels as soon as may be and at the latest within the period of eighteen months dated from the day of signature.

It shall go into effect three months after the close of the record of deposit.

In witness whereof the respective Plenipotentiaries have signed the present Additional Act.

Done at Brussels, in a single copy, December 14, 1900.

For Belgium:

Signed: A. NYSENS.  
CAPELLE.  
GEORGES DE RO.  
J. DUBOIS.

For Brazil:

Signed: F. XAVIER DA CUNHA.

For Denmark:

Signed: H. HOLTEN NIELSEN.

For the Dominican Republic:

Signed: JOHN W. HUNTER.

For Spain:

Signed: W. R. DE VILLA URRUTIA.

For the United States of America:

Signed: LAWRENCE TOWNSEND.  
FRANCIS FORBES.  
WALTER H. CHAMBERLIN.

For France:

Signed: A. GÉRARD.  
C. NICOLAS.  
MICHEL PELLETIER.

For Great Britain:

Signed: CHARLES B. STUART WORTLEY.  
H. C. BERGNE.  
C. N. DALTON.

For Italy:

Signed: R. CANTAGALLI.  
C. F. GABBA.  
S. OTTOLENGHI.

For Japan :	Signed: I. MOTONO.
For Norway :	Signed: CTE WRANGEL.
For the Netherlands :	Signed: SNYDER VAN WISSENKERKE.
For Portugal :	Signed: ERNESTO MADEIRA PINTO.
For Servia :	Signed: DR. MICHEL VOUITOH.
For Sweden :	Signed: CTE WRANGEL.
For Switzerland :	Signed: JULES BOREL. L. R. DE SALIS.
For Tunis :	Signed: A. GÉRARD. ÉTIENNE BLADÉ.

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LAW ON THE ACQUISITION AND LOSS OF CHINESE NATIONALITY.

SECTION I.

*Nationality by Parentage.*

Article I. The following are Chinese, whatever the locality may be in which they are born :

1. A child born of a father who at the time of its birth is Chinese.
2. A child born after the death of the father, if the father at the time of death was Chinese.
3. A child born of a Chinese mother, the father being unknown or without a determinate nationality.

Article II. A child born in China of parents unknown or of parents without a determinate nationality is Chinese.

An abandoned child without ascertainable place of birth takes Chinese nationality, when found on Chinese soil.

## SECTION II.

*Naturalization.*

Article III. Any alien desiring to be admitted to Chinese nationality may apply for naturalization, provided he can comply with all the following requirements:

1. That he has lived uninterruptedly over ten years within the limits of China.
2. That he has passed his twentieth birthday and is *sui juris* under the law of the country to which he originally belongs.
3. That he is of good moral character.
4. That he possesses so much property or such sources of income or such ability as enables him to live independently according to the circumstances of his place of residence.
5. That he shall, by the law of the country of which he is a subject be deemed to have lost the nationality thereof in consequence of his being naturalized abroad.

An alien without a fixed nationality may become naturalized if he is of full legal age and complies with the requirements enumerated in points 1, 3, and 4.

Article IV. The Waiwupu (the Ministry of Foreign Affairs) and the Min-cheng-pu (the Ministry of the Interior) can jointly propose to His Majesty to confer by a special decree the right of nationality on those foreigners, whether with or without a determinate nationality, who have rendered extraordinary and distinguished meritorious services to the Empire, even when they do not possess the requirements enumerated in points 1, 2, 3, and 4 of Article III.

Article V. The following persons, whether with or without a determinate nationality, are considered to have acquired Chinese nationality:

1. An alien woman who has married a Chinese.
2. An alien child living under the parental care of a Chinese step-father.
3. An illegitimate child born to and acknowledged by a Chinese father.
4. An illegitimate child born of a Chinese mother, when abandoned by the father and acknowledged by the mother.

Point 1 is confined to cases where registry of marriage has been duly made with the proper authorities; and points 2, 3, and 4 apply to those persons only who are either minors or unmarried women by the law of the country of which they are originally subjects.

Article VI. The Chinese nationality acquired by a man shall extend to his wife and his minor children; but if, by the law of his country, they do not thereby lose the nationality thereof, they shall be deemed to remain aliens.

In case, however, the wife desires to acquire Chinese nationality, or the nationalized person desires to have his minor children possess Chinese nationality they may separately apply for certificates of naturalization, even when they do not fulfil the requirements enumerated in points 1, 2, 3, and 4 of Article III.

Major children of a naturalized person, when residing in China, may also apply for naturalization without being required to fulfil the requirements enumerated in points 1, 2, 3 and 4 of Article III.

Article VII. A married woman can not alone apply for naturalization during the life of her husband.

Article VIII. A naturalized subject is incapable of becoming:

1. An office holder in the Grand Council or in the Privy Council.
2. A provincial officer of above the fourth rank.
3. An officer or soldier in the army.
4. A member of either house of parliament or of a provincial council.

The Ministry of the Interior may propose to His Majesty the removal of this disability from those persons to whom the right of nationality has been conferred by a special decree, when they have resided in China for a period of ten years reckoning from the date of their naturalization; and from those who are naturalized under the ordinary procedure, when they have resided in China for a period of 20 years reckoning from the date of their naturalization.

Article IX. Any alien who applies for naturalization must make and file a petition setting forth that, on his becoming naturalized, he will be faithful to the Constitution and obey the law of China and relinquish absolutely and forever whatever privileges and rights may attach to the nationality of the country to which he, at the time of filing his petition, may belong; and his petition is to be accompanied by a written joint guarantee of two respectable members of the gentry of his locality as to his faithful adherence to the declaration in the petition.

Article X. The petition for naturalization, together with other papers, is to be addressed to the first officer of that locality in which the petitioner resides. This officer examines the petition and, if satisfied that it is in a proper form, submits it to the highest provincial authority with the request that the latter transmit it to the Ministry of the Interior. The

Ministry of the Interior decides upon the petition and posts its decision on the notice-board, and if the petition be granted, issues a certificate of nationality to the petitioner.

The naturalization shall take effect at the moment of issuance of the certificate of nationality.

Persons who have become naturalized in pursuance of Article V must register with the first officer of that locality under whose jurisdiction they reside; and this officer shall submit such registry to the provincial authority with the request that it be forwarded to the Ministry of the Interior.

Likewise such persons, when residing abroad, must register at the Legation either directly or through a consulate; and the Legation shall forward such registry to the Ministry of the Interior.

### SECTION III.

#### *Loss of Nationality.*

Article XI. Any Chinese subject intending to acquire an alien nationality must first obtain permission of discharge.

Article XII. The permission of discharge shall be accorded only when the petitioner at the time of filing his petition

1. is not involved in any pending civil or criminal case,
2. is not bound to military duties,
3. is not in arrears with any state or communal tax, and
4. is not holding any governmental position or vested with official rank.

Article XIII. The following persons shall be deemed to have lost Chinese nationality:

1. A Chinese woman who has married a foreigner.
2. A Chinese child living under the parental care of an alien step-father.
3. An illegitimate child born to and acknowledged by an alien father.
4. An illegitimate child born of an alien mother, when abandoned by the father and acknowledged by the mother.

Point 1 is confined to cases where registry of marriage has been duly made with the proper authorities. If by the law of her husband's country she does not acquire its nationality through marriage, she shall be deemed to remain a Chinese.

Points 2, 3, and 4 shall apply to those persons only who are either minor children or unmarried women under the law of China.

Article XIV. The discharge acquired by a man extends to his wife and to his minor children, unless the wife desires to retain Chinese nationality or unless the discharged man desires his minor children to retain Chinese nationality in which case they remain Chinese on petition to the authorities.

Article XV. A married woman during the life-time of her husband can not alone apply for a discharge.

All persons who, according to the law of China, are either minors or not *sui juris* likewise can not alone apply for discharge.

Article XVI. Any Chinese who has divested himself of national status as a Chinese subject shall not enjoy any of the special privileges enjoyed by Chinese in the interior.

Article XVII. Any person who applies for discharge must make and file a written statement declaring that he fulfills the requirements enumerated in Article XII and is free from any secret crime.

Article XVIII. The petition for discharge is to be addressed to the first officer of that locality in which the petitioner resides. This officer examines the petition and, if satisfied that it is in a proper form, submits it to the highest provincial authority with the request that it be forwarded to the Ministry of the Interior. The Ministry of the Interior decides upon the petition and posts its decision upon the notice-board.

In case the petitioner resides abroad his petition is to be addressed to the Legation either directly or through a consulate; and the Legation shall forward the petition to the Ministry of the Interior for final decision.

The discharge shall not take effect until the sanction of the Ministry of the Interior has been granted and posted on the notice-board; and all persons who have not filed a petition for discharge or whose petition is not granted remains Chinese for all purposes.

#### SECTION IV.

##### *Readmission.*

Article XIX. A Chinese woman who has become an alien by or in consequence of marriage may apply for readmission to Chinese nationality provided she has been judicially divorced from her husband or has become a widow.

Article XX. The wife of a discharged person may, when the marital relations have been terminated by divorce or death, also recover Chinese nationality on petitioning the Chinese authorities.

Any person, who, while a minor, became an alien through discharge of his father, may after he has attained his majority, likewise reacquire Chinese nationality on petitioning the Chinese authorities.

Article XXI. Any Chinese subject who has become an alien with permission of the Chinese authorities but who has since lived uninterruptedly in China for a period of more than three years may petition for readmission to Chinese nationality if he can fulfil the requirements in points 3 and 4 of Article III.

This provision, however, does not apply to any naturalized subject.

Article XXII. Any person seeking readmission shall furnish in support of his petition a written joint guarantee of two respectable members of the gentry of his original native province as to the validity of his claim; and the procedure of forwarding the petition and securing its sanction shall be the same as is provided in Article X.

In case the petitioner resides abroad the guarantee shall be signed by two Chinese merchants residing in the locality and addressed to the Legation for transmission to the Ministry of the Interior.

The readmission shall take effect at the moment when the sanction is granted and posted on the notice-board.

Article XXIII. No person who has reacquired Chinese nationality can, previous to the completion of five years' residence in China, become one of the officers enumerated in Article VIII except by special decree of the Emperor.

Article XXIV. This law shall go into effect immediately on obtaining the Imperial sanction.

#### *Supplemental Provisions.*

1. Any Chinese subject who, prior to the operation of this law, has become naturalized in a foreign state without permission from the Chinese authorities and has since resided abroad must, on returning to China, report at the first port to the consul of the country of his acquired nationality and request the latter duly to communicate his naturalization and the date thereof to the local Chinese authorities, and such communication shall be deemed sufficient proof of his renunciation of his national status as a Chinese subject.

2. Any Chinese subject who, prior to the operation of this law, has become naturalized as an alien subject without permission of the Chinese authorities and has since resided in the settlement of a Chinese treaty port, must within one year of the enactment of this law make known his



alienation to the local Chinese authorities who, before recognizing his expatriation shall first ascertain from the consul who represents his acquired nationality the time at which such naturalization was effected.

3. Whoever does not prove the loss of his Chinese nationality in pursuance of the preceding two provisions shall be deemed to have remained a Chinese subject.

4. Any Chinese who, prior to the operation of this law, has acquired an alien nationality without permission of the Chinese authorities but who has since resided, traded and owned immovable property in the interior and enjoyed such special privileges and rights as Chinese are entitled to enjoy shall be deemed to have remained always a Chinese subject.

5. Any Chinese who, prior to the operation of this law, has acquired an alien nationality without permission of the Chinese authorities and yet has since held or is still holding some governmental position shall be deemed to have remained always a Chinese subject.

6. Any Chinese subject who, prior to the operation of this law, has become an alien may at any time petition for readmission to the Chinese nationality in pursuance of Article XXII of this law without being subject to Articles XXI and XXIII.

7. Any Chinese subject who, prior to the operation of this law, has long resided abroad in consequence of his birth and yet is desirous of retaining Chinese nationality shall be deemed to be a Chinese.

8. Any person who has lost Chinese nationality in accordance with this law shall not reside in the interior under penalty of expulsion, and shall be required to sell and give up within one year after naturalization all immovable property and all other interests which he has hitherto acquired and enjoyed as a Chinese, failing which all such property and interests shall be sequestered.

9. Where a person who has expatriated himself in accordance with this law is discovered at a later time not to have fulfilled all the requirements of Article XII, or to have been involved in a criminal act before or at the time of his expatriation, the permission of alienage already issued to him shall be rescinded and he shall be liable to the prosecution and punishment authorized by Chinese law.

10. Where any person obtains permission of expatriation under pretence of acquiring an alien nationality or knowingly makes false statements in his declaration, the permission of expatriation shall be rescinded and he shall be liable to imprisonment for not less than six months nor more than one year.

## BELGIAN LAW ON THE ACQUISITION AND LOSS OF NATIONALITY.

*June 8, 1909.*

Leopold II, King of the Belgians, to all whom these presents shall come, greeting.

The Chambers have adopted and we sanction what follows:

Article I. Are Belgian:

(1) A child born, even in a foreign country, of either a Belgian father or a Belgian mother, if the father has no fixed nationality.

(2) A child born of a foreigner after the dissolution of the marriage, if the mother enjoys Belgian nationality at the time of the child's birth.

Art. 2. A natural child of less than 21 years of age, whose parentage is established by deed of recognition or by the judgment of a court follows the nationality of the parent with regard to whom proof has first been given.

If such proof arises for the father and for the mother from the same deed or the same judgment or from simultaneous deeds, the child follows the nationality of the father.

Art. 3. The moment of conception, in preference to the moment of birth, is taken when the nationality of the child's parents at the moment of conception attributes Belgian nationality to the child.

Art. 4. A child born in Belgium of parents legally unknown or of parents without fixed nationality is Belgian.

A child found in Belgium is presumed, in default of proof to the contrary, to have been born on Belgian soil.

Art. 5. A foreign woman, marrying a Belgian or whose husband becomes a Belgian, follows her husband's nationality.

Art. 6. Children being minors and unmarried of a foreigner who voluntarily acquires Belgian nationality become Belgian. They can, however, during the year following the attainment of their majority, renounce Belgian nationality by declaring their desire to recover their foreign nationality.

Art. 7. Become Belgian at the expiration of their 22nd year if during that year they have had their domicile in Belgium and have not declared their intention of retaining their foreign nationality:

(1) A child born in Belgium of foreign parents one of whom was himself born there or has been domiciled there for ten years continuously.

(2) A child born in Belgium of a foreigner and who has been domiciled in the kingdom for the last six years continuously.

Art. 8. A child born of a father or a mother who may have lost their Belgian nationality can always acquire Belgian nationality, provided he declares his intention to fix his domicile in Belgium, and that he establishes his domicile there effectively during the year reckoned from the time of such declaration.

Art. 9. A child born in Belgium of a foreigner can in his 22nd year acquire Belgian nationality by carrying out the formalities laid down in the preceding article.

Art. 10. A foreigner who has obtained Belgian naturalization becomes Belgian.

Art. 11. Belgian nationality is lost by:

- (1) Those who voluntarily acquire a foreign nationality.
- (2) A woman who marries a foreigner of fixed nationality or whose husband voluntarily acquires a foreign nationality, provided such foreign nationality is also acquired by her by virtue of the foreign law.
- (3) Children being minors and unmarried of a Belgian who voluntarily acquires a foreign nationality, if by such act they acquire the nationality of their parent.

Art. 12. A child born abroad of a Belgian, who himself was born abroad, can always decline Belgian nationality if he has legally acquired a foreign nationality.

Art. 13. Persons who have lost Belgian nationality can always recover it, provided they have not ceased to reside in Belgium, or have come back with the King's authorization; provided also that in both cases they declare their intention of fixing their domicile in Belgium, and that they establish it there effectively during the year reckoned from the time of such declaration.

A woman who has lost her Belgian nationality by the application of article 11 (2), can always recover it, as stated above, after the dissolution of the marriage.

Children who have lost their Belgian nationality by the application of article 11 (3) can always recover it after completing their 21st year, by conforming to the rules laid down in article 8.

Art. 14. Minors will be permitted to make the declaration provided for in articles 6, 7, 8, 9, 12, and 13 from the age of 18 years complete, with the consent of the father, or, in default of the father, with that of the mother, or in default of father and mother, with the authorization of the other forefathers or of the family, given according to the conditions laid down for marriages in chapter I, section V, book I of the Civil Code.

The consent of the father, the mother, or of the other forefathers, shall be given either verbally at the time of the declaration or by notarial act.

Special mention of such consent, or of the authorization of the family, shall be made in the deed drawn up to prove the option.

In cases of indigence, the deed of consent may be received by the officer of the "etat civil" of the domicile of the forefathers, and abroad by the authorities who are competent to receive such deed, as well as by Belgian diplomatic agents, consuls, and vice-consuls.

Art. 15. Declarations of nationality shall be made either before the officer of the "etat civil" at the place of residence in Belgium, or before the Belgian diplomatic and consular agents abroad.

They can be made by special and notarial power of attorney.

They are inscribed in registers governed by the provisions of articles 40 to 45 and 50 to 54 of the Civil Code.

Art. 16. Articles 9, 10, 12, 17, 18, 19, and 20 of the Civil Code, as well as article 1 of the law of the 16th of July, 1889, are repealed.

#### *Transitory Provisions.*

Art. 17. Are Belgian those persons born in Belgium of a father himself born in the kingdom, who, domiciled there for the past ten years from the time of publication of the present law, have omitted to make the declaration provided for by article 9 of the Civil Code, unless within two years of such publication they declare their intention of retaining their foreign nationality.

Art. 18. Individuals born in Belgium who may have omitted to make the declaration provided by the old article 9 of the Civil Code may, within two years of the publication of the present law, acquire Belgian nationality by carrying out the formalities laid down in article 8.

We promulgate the present law, and order it to be sealed with the State seal and published in the "Moniteur."

Given at Laeken, the 8th June, 1909.

**LÉOPOLD**

By the King:

The Minister of Justice,  
LÉON DE LANTSHEERE.

Sealed with the seal of State:

The Minister of Justice,  
LÉON DE LANTSHEERE.

## CONVENTIONS ADOPTED BY THE SECOND CENTRAL AMERICAN CONFERENCE.

*Convention for the Unification of the Currency.*

The Governments of the Republics of El Salvador, Nicaragua, Honduras, Costa-Rica and Guatemala, with a view to preparing for the future unification of an international Central American circulating medium of currency, have determined to enter into a Convention for that purpose and to that end have named as Delegates:

El Salvador, Dr. Salvador Rodríguez G.

Nicaragua, Dr. Manuel Pérez Alonso.

Honduras, Dr. Salvador Cordova.

Costa-Rica, Señor Roberto Brenes Mesén, and

Guatemala, Señor Manuel María Girón.

After having communicated to each other their respective full powers, which were found in due form, they have agreed to bring about their purpose in the following way:

WHEREAS; First, — In the preceding Conference held at the City of Tegucigalpa certain measures were adopted looking to the unification of Central American currency upon a gold and silver basis on conditions of parity; and, second, that Convention did not meet with the approval of the Governments because of monetary conditions peculiar to each country, which the Second Conference has been able to take into account, and whereas it finds itself in general agreement with the conclusions of the preceding Conference,

## IT IS RESOLVED THAT:

## ARTICLE I.

The Conference recommends to the Governments here represented to adopt measures for the establishment of a gold standard with fixed ratio to American gold.

## ARTICLE II.

As soon as the Governments shall have established the gold basis, a date shall be fixed for the equalization of value and the coinage of international Central American currency.

## ARTICLE III.

The fineness, the weight, tolerance, the diameter and the design of the Central American currency, as well as its inscription, shall be determined in the Conference which consents to its coinage.

Signed in the city of San Salvador, the second day of February, 1910.

(Signed)	SALVADOR RODRÍGUEZ G.
do	M. PÉREZ ALONSO.
do	SALVADOR CÓRDOVA.
do	R. BRENES MESÉN.
do	MANUEL MA. GIRÓN.

*Convention Concerning the Approval of Plans, Estimates and Manner of Payment for the Construction and Equipment of the Pedagogical Institute of Central America.*

The Governments of El Salvador, Nicaragua, Honduras, Costa Rica and Guatemala, deeming that the immediate founding of the Central American Pedagogical Institute is a work of transcendent merit as agreed upon in the Conventions of Washington, because such Foundation would mean the unifying of the tendencies and aspirations of Central American Public Instruction, the basis upon which must rest any moral or material union of the five Republics, have named Delegates, for the purpose of agreeing upon the plans and estimates, as well as to fix upon the manner of payments, as follows:

El Salvador, Dr. Salvador Rodríguez G.

Nicaragua, Señor Manuel Pérez Alonso.

Honduras, Doctor Salvador Córdova.

Costa Rica, Señor Roberto Brenes Mélen; and

Guatemala, Señor Manuel María Girón.

The Delegates, having met at Casa Blanca, after having communicated to each other their respective full powers which were found in due form, have agreed upon the following:

Art. 1. The plans submitted by the Government of Costa Rica for the construction of the buildings for the Central American Pedagogical Institute, following the system of separate buildings, are approved.

Art. 2. The estimate of expenses for the building and equipment of the establishment, to the amount of three hundred thousand dollars (\$300,000), or sixty thousand dollars for each Republic (\$60,000), is approved.

Art. 3. The first quota of five thousand dollars (\$5,000) shall be transmitted to the Government of Costa Rica before the 31st of March of the current year. The Government of Nicaragua shall transmit its first quota six months after the reestablishment of order in the Republic.

The successive quotas shall be monthly and for the amount of one thousand dollars (\$1,000) or more, at the option of the remitting Government.

Art. 4. The Government of Costa Rica, shall send every three months a statement of its accounts for the information of the other signatory Governments.

Signed in the city of San Salvador, the second day of February, 1910.

(Signed) SALVADOR RODRÍGUEZ G.

(Signed) M. PÉREZ ALONSO.

(Signed) SALVADOR CÓRDOVA.

(Signed) R. BRENES MESÉN.

(Signed) MANUEL MA. GIRÓN.

*Convention Concerning the Functions of the International Central American Bureau.*

WE, the undersigned, Delegates of the Republics of El Salvador, Nicaragua, Honduras, Costa Rica, and Guatemala, met at the Second Central American Conference, —

Believing that, for the good progress of the International Central American Bureau, established by the Convention signed at Washington the 20th of December, 1907, it is necessary to determine clearly and positively what are the functions of the said Bureau and what the scope of its powers, —

Have agreed, in the name of our respective Governments, to make the following Declaration :

ARTICLE I.

The functions committed to the International Central American Bureau are the following :

1. To strive to advance the Central American interests enumerated in Article I of the Convention of the 20th of December, 1907, which established the Bureau :
2. To carry out the measures which the signatory Republics may deem necessary and appropriate for the purposes set forth in the afore-said Convention, in conformity with Art. IV thereof.
3. To specify in its By-Laws the functions which, by virtue of the above paragraphs 1 and 2, appertain to it.
4. To take provisions for its internal organization conducive to the maintenance and development of the Central American interests which have been placed or may in future be placed under its care and vigilance, and
5. To propose a program for the annual Central American Conferences instituted by the Convention of Washington of the 20th of December, 1907, and to carry out the work which those Conferences commit to it.

ARTICLE II.

The International Central American Bureau has no political function or power, save the obtaining and propagating of information in favor of such Central American interests as are confided to it. Otherwise the Bureau shall not interfere in the internal or external politics of the States.

## ARTICLE III.

It shall be left exclusively to each of the interested Governments to appoint its Delegate to the Bureau, as well as to remove him when it may see fit, and to fix the emoluments which he shall enjoy.

## ARTICLE IV.

The Delegates shall enjoy diplomatic immunities in the Republic of Guatemala.

## ARTICLE V.

The annual estimates of expenses of the International Central American Bureau shall be subject to the approval of the interested Governments which shall be informed of the general By-Laws which the Bureau issues, as well as any later amendments.

## ARTICLE VI.

Each of the contracting parties shall give immediate notice to the others of the legislative ratification of the present Declaration, and this announcement shall be held to be an exchange of ratifications.

In witness whereof we sign the present Declaration in the city of San Salvador, the 3d day of February, 1910.

(Signed)	SALVADOR RODRÍGUEZ G.
do	M. PÉREZ ALONSO.
do	SALVADOR CÓRDOVA.
do	R. BRENES MESÉN.
do	MANUEL MA. GIRÓN.

*Convention Relative to the Unification of Weights and Measures.*

The Governments of the Republics of El Salvador, Nicaragua, Honduras, Costa Rica and Guatemala have appointed the following delegates for the purpose of taking steps for the unification of the weights and measures:

El Salvador, Dr. Salvador Rodríguez G.

Nicaragua, Dr. Manuel Pérez Alonso.

Honduras, Dr. Salvador Córdova.

Costa Rica, Señor Roberto Brenes Mesén, and

Guatemala, Señor Manuel María Girón.

These Delegates, meeting at Casa Blanca, have agreed to effect their purpose in the following manner:



## ARTICLE I.

The legal system of weights and measures for the five Republics of Central America shall be the French metric system to the absolute exclusion of any other kind of units, for the measurement of lines, areas, weights and volumes, which must always be expressed in meters, areas, grammes and liters, or by their multiples or sub-multiples.

## ARTICLE II.

In the Capital of each of the five Republics there shall be founded a "Bureau of Comparison" supplied with the fundamental prototypes of the meter and kilogram, obtained from the International Bureau of Weights and Measures in Paris; of exact models of the usual measures; and of the instruments of comparison which will permit precise verification to within at least ten millimeters and ten milligrams of the limits of tolerance of the fundamental standards for the offices of the Departments or, of the second class, standards whose real value may therefore differ to the extent of 0.0001 from the latter.

## ARTICLE III.

Each Government shall make its own regulations for the establishment and the use of the metric system in conformity with the basis set forth in the preceding articles.

## ARTICLE IV.

Upon the approval of this Convention, the Governments of the signatory Republics shall make it obligatory in their schools to give instruction in the French metric system to the exclusion of any other system.

Signed in San Salvador, the 3d day of February, 1910.

(Signed)	SALVADOR RODRÍGUEZ G.
do	M. PÉREZ ALONSO.
do	SALVADOR CÓRDOVA.
do	R. BRENES MESÉN.
do	MANUEL MA. GIRÓN.

*Convention Concerning Central American Commerce.*

The Governments of the Republics of El Salvador, Nicaragua, Honduras, Costa Rica and Guatemala, to the end of fomenting international Central American commerce — it not being possible for reasons peculiar to some of them to establish free trade — have appointed as their Delegates:

El Salvador, Dr. Salvador Rodríguez G.

Nicaragua, Dr. Manuel Pérez Alonso.

Honduras, Dr. Salvador Córdova.

Costa Rica, Señor Roberto Brenes Mesén.

Guatemala, Señor Manuel María Girón.

The Delegates meeting at the Casa Blanca have agreed to bring about their purpose in the following manner:

#### ARTICLE I.

From the first of January, 1911, next, the import commerce of the contracting Republics shall enjoy a reduction of 20 per cent. from the custom duties upon their original products and native manufactures; and of 10 per cent. upon the products manufactured from imported raw materials.

#### ARTICLE II.

If, by reason of prior treaties, there should be a nation which enjoys customs privileges in a Central American State, the reduction of 20 per cent. above mentioned shall be in addition to the privilege so conceded.

#### ARTICLE III.

Articles the importation of which is or may hereafter be under special restriction or prohibition do not come within this Convention; nor do those articles which have been the subject of agreement by special laws of the respective contracting States come within this present Convention.

Signed in the city of San Salvador, the 4th day of February, 1910.

(Signed) M. PÉREZ ALONSO.

do SALVADOR CÓRDOVA.

do R. BRENES MESÉN.

do MANUEL MA. GIRÓN.

The Delegate of El Salvador, undersigned, reserves his vote upon this Convention and, in accordance with the Rules of the Conference, accepts the Convention ad referendum only.

(Signed) SALVADOR RODRÍGUEZ G.

#### *Convention Relative to the Consular Service.*

The Governments of the Republics of El Salvador, Nicaragua, Honduras, Costa Rica, and Guatemala, for the purpose of consolidating the Central American Consular Service, have decided to enter into a Con-

vention for this purpose, and to that end have appointed as their Delegates:

El Salvador, Dr. Salvador Rodríguez G.

Nicaragua, Dr. Manuel Pérez Alonso.

Honduras, Dr. Salvador Córdova.

Costa Rica, Roberto Brenes Mesén.

Guatemala, Manuel María Girón.

Who, after having communicated their respective full powers, which were found in due form, have agreed upon the following:

#### ARTICLE I.

The nations here represented agree to consolidate their representation in the commercial places and markets, to be mutually agreed upon, by functionaries called Consuls who shall have the duties which the title presupposes, which are indicated by the local consular regulations and also those which may be determined upon in the future when the unification of the consular regulations and allied laws is made.

#### ARTICLE II.

The nations here represented will agree, through their delegates, upon the designations of the Consulates which are to be established whose number must be a multiple of five for equal distribution among the interested States.

#### ARTICLE III.

The Consulates which each State is to supervise and pay for shall be decided by lot.

#### ARTICLE IV.

It is the duty of the Governments to impose upon the Consuls accredited and appointed in virtue of this Convention the duty to protect, guard and promote equally and without any distinction the commercial interests of the five Central American States; the compilation of detailed statistics which shall be communicated to those who are interested in the movement of importation and exportation within his jurisdiction with each of the Republics; the study and suggestion to the respective Governments of the measures which would secure to each of the nations concerned the greatest participation in the commerce of that place.

## ARTICLE V.

The selection of the Consulates which are to be established, as well as the determination by lot of the places for which each State shall provide, in accordance with the provisions contained in Articles 2 and 3 of this Convention, shall be left for determination at the meeting of the next Conference.

## ARTICLE VI.

The Consuls shall be Central-Americans, such persons having greater interest and greater knowledge of the affairs of those countries.

## ARTICLE VII.

Consuls shall receive a fixed salary and the Consular fees for importations shall be turned over to the respective country into which the goods are imported.

## ARTICLE VIII.

It is recommended that a comparative study of the various consular regulations and fees shall be made by the International Central American Bureau so that the next Conference may submit a project for their unification.

Signed in the City of San Salvador, the 4th day of February, 1910.

(S.) SALVADOR RODRÍGUEZ G.

(S.) M. PÉREZ ALONSO.

(S.) SALVADOR CÓRDOVA.

(S.) R. BRENES MESÉN.

(S.) MANUEL MA. GIRÓN.

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TREATY BETWEEN THE UNITED STATES AND CUBA.

*Concluded May 22, 1903; ratified by the President June 25, 1904; proclaimed July 2, 1904.*

Whereas the Congress of the United States of America, by an Act approved March 2, 1901, provided as follows:

*Provided further,* That in fulfillment of the declaration contained in the joint resolution approved April twentieth, eighteen hundred and ninety-eight, entitled "For the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish

its authority and government in the island of Cuba, and to withdraw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to use the land and naval forces of the United States to carry these resolutions into effect," the President is hereby authorized to "leave the government and control of the island of Cuba to its people" so soon as a government shall have been established in said island under a constitution which, either as a part thereof or in an ordinance appended thereto, shall define the future relations of the United States with Cuba, substantially as follows:

I. That the government of Cuba shall never enter into any treaty or other compact with any foreign power or powers which will impair or tend to impair the independence of Cuba, nor in any manner authorize or permit any foreign power or powers to obtain by colonization or for military or naval purposes or otherwise, lodgement in or control over any portion of said island.

II. That said government shall not assume or contract any public debt, to pay the interest upon which, and to make reasonable sinking fund provision for the ultimate discharge of which, the ordinary revenues of the island, after defraying the current expenses of government shall be inadequate.

III. That the government of Cuba consents that the United States may exercise the right to intervene for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property, and individual liberty, and for discharging the obligations with respect to Cuba imposed by the treaty of Paris on the United States, now to be assumed and undertaken by the government of Cuba.

IV. That all Acts of the United States in Cuba during its military occupancy thereof are ratified and validated, and all lawful rights acquired thereunder shall be maintained and protected.

V. That the government of Cuba will execute, and as far as necessary extend, the plans already devised or other plans to be mutually agreed upon, for the sanitation of the cities of the island, to the end that a recurrence of epidemic and infectious diseases may be prevented, thereby assuring protection to the people and commerce of Cuba, as well as to the commerce of the southern ports of the United States and the people residing therein.

VI. That the Isle of Pines shall be omitted from the proposed constitutional boundaries of Cuba, the title thereto being left to future adjustment by treaty.

VII. That to enable the United States to maintain the independence of Cuba, and to protect the people thereof, as well as for its own defense, the government of Cuba will sell or lease to the United States lands necessary for coaling or naval stations at certain specified points to be agreed upon with the President of the United States.

VIII. That by way of further assurance the government of Cuba will embody the foregoing provisions in a permanent treaty with the United States.

Whereas the Constitutional Convention of Cuba, on June twelfth, 1901, adopted a Resolution adding to the Constitution of the Republic

of Cuba which was adopted on the twenty-first of February, 1901, an appendix in the words and letters of the eight enumerated articles of the above cited act of the Congress of the United States;

And whereas, by the establishment of the independent and sovereign government of the Republic of Cuba, under the constitution promulgated on the 20th of May, 1902, which embraced the foregoing conditions, and by the withdrawal of the Government of the United States as an intervening power, on the same date, it becomes necessary to embody the above cited provisions in a permanent treaty between the United States of America and the Republic of Cuba;

The United States of America and the Republic of Cuba, being desirous to carry out the foregoing conditions, have for that purpose appointed as their plenipotentiaries to conclude a treaty to that end,

The President of the United State of America, Herbert G. Squiers, Envoy Extraordinary and Minister Plenipotentiary at Havana,

And the President of the Republic of Cuba, Carlos de Zaldo y Beurmann, Secretary of State and Justice,— who after communicating to each other their full powers found in good and due form, have agreed upon the following articles:

#### ARTICLE I.

The Government of Cuba shall never enter into any treaty or other compact with any foreign power or powers which will impair or tend to impair the independence of Cuba, nor in any manner authorize or permit any foreign power or powers to obtain by colonization or for military or naval purposes, or otherwise, lodgment in or control over any portion of said island.

#### ARTICLE II.

The Government of Cuba shall not assume or contract any public debt to pay the interest upon which, and to make reasonable sinking fund provision for the ultimate discharge of which, the ordinary revenues of the Island of Cuba, after defraying the current expenses of the Government, shall be inadequate.

#### ARTICLE III.

The Government of Cuba consents that the United States may exercise the right to intervene for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property, and individual liberty, and for discharging the obligations with

respect to Cuba imposed by the Treaty of Paris on the United States, now to be assumed and undertaken by the Government of Cuba.

#### ARTICLE IV.

All acts of the United States in Cuba during its military occupancy thereof are ratified and validated, and all lawful rights acquired thereunder shall be maintained and protected.

#### ARTICLE V.

The Government of Cuba will execute, and, as far as necessary, extend the plans already devised, or other plans to be mutually agreed upon, for the sanitation of the cities of the island, to the end that a recurrence of epidemic and infectious diseases may be prevented, thereby assuring protection to the people and commerce of Cuba, as well as to the commerce of the Southern ports of the United States and the people residing therein.

#### ARTICLE VI.

The Island of Pines shall be omitted from the boundaries of Cuba specified in the Constitution, the title thereto being left to future adjustment by treaty.

#### ARTICLE VII.

To enable the United States to maintain the independence of Cuba, and to protect the people thereof, as well as for its own defense, the Government of Cuba will sell or lease to the United States lands necessary for coaling or naval stations, at certain specified points, to be agreed upon with the President of the United States.

#### ARTICLE VIII.

The present Convention shall be ratified by each party in conformity with the respective Constitutions of the two countries, and the ratifications shall be exchanged in the City of Washington within eight months from this date.

In witness whereof, we the respective Plenipotentiaries, have signed the same in duplicate, in English and Spanish, and have affixed our respective seals at Havana, Cuba, this twenty-second day of May, in the year nineteen hundred and three.

H. G. SQUIERS. (SEAL)  
CARLOS DE ZALDO. (SEAL)

CONVENTION FOR INTERNATIONAL EXCHANGE OF OFFICIAL DOCUMENTS,  
SCIENTIFIC AND LITERARY PUBLICATIONS.

*Concluded at Brussels March 15, 1886; ratified by the President July 19, 1888; proclaimed January 15, 1889.*

The President of the United States of America, His Majesty the King of the Belgians, His Majesty the Emperor of Brazil, Her Majesty the Queen Regent of Spain, His Majesty the King of Italy, His Majesty the King of Portugal and of the Algarves, His Majesty the King of Servia, The Federal Council of the Swiss Confederation, desiring to establish, on the bases adopted by the Conference which met at Brussels from the 10th to the 14th April, 1883, a system of international exchanges of the official documents and of the scientific and literary publications of their respective States, have appointed for their Plenipotentiaries, to wit:

The President of the United States of America, Mr. Lambert Tree, Minister Resident of the United States of America at Brussels,

His Majesty the King of the Belgians, the Prince de Caraman, His Minister of Foreign Affairs, and the Chevalier de Moreau, His Minister of Agriculture, Industry and Public Works,

His Majesty the Emperor of Brazil, The Count de Villeneuve, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians,

Her Majesty the Queen Regent of Spain, Mr. de Tavira, Chargé d'Affaires ad-interim of Spain at Brussels,

His Majesty the King of Italy, the Marquis Maffei, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians,

His Majesty the King of Portugal and of the Algarves, the Baron de Sant' Anna, Envoy Extraordinary and Minister Plenipotentiary of His Very Faithful Majesty.

His Majesty the King of Servia, Mr. Marinovitch, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians,

The Federal Council of the Swiss Confederation, Mr. Rivier its special Plenipotentiary.

Who, after having communicated between themselves their full powers, which are found in good and due form, have agreed upon the following Articles:



ARTICLE I.

There shall be established in each of the contracting States, a bureau charged with the duty of the exchanges.

ARTICLE II.

The publications which the contracting States agree to exchange, are the following:

1st. The Official documents, parliamentary and administrative, which are published in the country of their origin.

2nd. The works executed by order and at the expense of the Government.

ARTICLE III.

Each bureau shall cause to be printed a list of the publications that it is able to place at the disposal of the contracting States.

This list shall be corrected and completed each year and regularly addressed to all of the bureaus of exchange.

ARTICLE IV.

The bureaus of exchange will arrange between themselves the number of copies which they may be able eventually to demand and furnish.

ARTICLE V.

The transmissions shall be made directly from bureau to bureau. Uniform models and formulas will be adopted for the memoranda of the contents of the cases, as well as for all the administrative correspondence, requests, acknowledgments of reception, etc.

ARTICLE VI.

For exterior transmissions, each State assumes the expense of packing and transportation to the place of destination. Nevertheless when the transmissions shall be made by sea, special arrangements will regulate the share of each State in the expense of transportation.

ARTICLE VII.

The bureaus of exchange will serve, in an officious capacity, as intermediaries between the learned bodies and literary and scientific societies,

etc., of the contracting States for the reception and transmission of their publications.

It remains however well understood that, in such case, the duty of the bureaux of exchange will be confined to the free transmission of the works exchanged and that these bureaux will not in any manner take the initiative to bring about the establishment of such relations.

#### ARTICLE VIII.

These provisions apply only to the documents and works published after the date of the present Convention.

#### ARTICLE IX.

The States which have not taken part in the present Convention are admitted to adhere to it on their request.

This adhesion will be notified diplomatically to the Belgian Government and by that Government to all the other signatory States.

#### ARTICLE X.

The present Convention will be ratified and the ratifications will be exchanged at Brussels, as soon as practicable. It is concluded for ten years, from the day of the exchange of ratifications, and it will remain in force beyond that time, so long as one of the Governments shall not have declared six months in advance that it renounces it.

In witness whereof, the respective Plenipotentiaries have signed it, and have thereunto affixed their seals.

Done at Brussels in eight copies the 15th of March, 1886.

LAMBERT TREE.	(SEAL)
PR. DE CARAMAN.	(SEAL)
CHVLIER D. MOREAU.	(SEAL)
CTE. DE VILLENEUVE.	(SEAL)
JOSÉ MA. DE TAVIRA.	(SEAL)
MAFFEI.	(SEAL)
BON DE SANT' ANNA.	(SEAL)
J. MARINOVITCH.	(SEAL)
ALPHONSE RIVIER.	(SEAL)

CONVENTION FOR THE IMMEDIATE EXCHANGE OF OFFICIAL JOURNALS,  
PARLIAMENTARY ANNALS, AND DOCUMENTS.

*Concluded at Brussels March 15, 1886; ratified by the President July 19, 1888; proclaimed January 15, 1889.*

The President of the United States, His Majesty the King of the Belgians, His Majesty the Emperor of Brazil, Her Majesty the Queen Regent of Spain, His Majesty the King of Italy, His Majesty the King of Portugal and of the Algarves, His Majesty the King of Servia, desiring to assure the immediate exchange of the Official Journal as well as of the parliamentary Annals and Documents of their respective States, have named as their Plenipotentiaries, to wit:

The President of the United States of America, Mr. Lambert Tree, Minister Resident of the United States of America at Brussels,

His Majesty the King of the Belgians, The Prince de Caraman, His Minister of Foreign Affairs, and the Chevalier de Moreau, His Minister of Agriculture, Industry and Public Works,

His Majesty the Emperor of Brazil, the Count de Villeneuve, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians,

Her Majesty the Queen Regent of Spain, Mr. de Tavira, Chargé d'Affaires, ad interim, of Spain at Brussels,

His Majesty the King of Italy, The Marquis Maffei, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians,

His Majesty the King of Portugal and of the Algarves, the Baron de Sant' Anna, Envoy Extraordinary and Minister Plenipotentiary of His Very Faithful Majesty,

His Majesty the King of Servia, Mr. Marinovitch, His Envoy Extraordinary and Minister Plenipotentiary near His Majesty the King of the Belgians.

Who, after having communicated between themselves their full powers, found in good and due form, have agreed upon the following Articles:

## ARTICLE I.

Independently of the obligations which result from Article 2 of the General Convention of this day, relative to the exchange of official documents and of scientific and literary publications, the respective Governments undertake to have transmitted to the legislative chambers of each

contracting State, as fast as their publication, a copy of the Official Journal as well as of the parliamentary Annals and Documents, which are given publicity.

ARTICLE II.

The States which have not taken part in the present Convention are admitted to adhere thereto on their request.

This adhesion will be notified diplomatically to the Belgian Government, and by that Government to all the other signatory States.

ARTICLE III.

The present Convention will be ratified and the ratifications will be exchanged at Brussels as soon as practicable. It is concluded for ten years from the day of the exchange of the ratifications and it will remain in force beyond that time, so long as one of the Governments shall not have declared six months in advance that it renounces it.

In witness whereof, the respective Plenipotentiaries have signed it, and have thereunto affixed their seals.

Done at Brussels, in seven copies the 15th of March, 1886.

LAMBERT TREE.	(SEAL)
PR. DE CARAMAN.	(SEAL)
CHVLIER D. MOREAU.	(SEAL)
CTE. DE VILLENEUVE.	(SEAL)
JOSÉ MA. DE TAVIRA.	(SEAL)
MAFFEI.	(SEAL)
BON DE SANT' ANNA.	(SEAL)
J. MARINOVITCH.	(SEAL)

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**EDITORS' NOTE:**

To commence with the October number of this Supplement, which closes the year, it is proposed to append a topical Index of the matter contained since its beginning. And hereafter each October number will have a similar index which, thus being so to speak cumulative, will, it is hoped, make the entire series more convenient.

This unique Supplement, uniting the political documents of today in every country with the more important treaties which bear upon certain topics of living interest, indexed constantly up to the present, will furnish information in official form, which it is believed no library, no student of our history, no well equipped lawyer and no newspaper office of importance can afford to be without.

## OFFICIAL DOCUMENTS

### DOCUMENTS RELATING TO THE UNITED STATES AND LIBERIA.

#### *Act of March 3, 1819, Relative to the Slave Trade.*

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the President of the United States be, and he is hereby, authorized, whenever he shall deem it expedient, to cause any of the armed vessels of the United States, to be employed to cruise on any of the coasts of the United States, or territories thereof, or of the coast of Africa, or elsewhere, where he may judge attempts may be made to carry on the slave trade by citizens or residents of the United States, in contravention of the acts of Congress prohibiting the same and to instruct and direct the commanders of all armed vessels of the United States to seize, take, and bring into any ports of the United States, all ships or vessels of the United States, wheresoever found, which may have taken on board, or which may be intended for the purpose of taking on board, or of transporting, or may have transported, any negro, mulatto, or person of color, in violation of any of the provisions of the act entitled "An Act in addition to an act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of Our Lord one thousand eight hundred and eight, and to repeal certain parts of the same," or any other act or acts prohibiting the traffic in slaves, to be proceeded against according to law: And the proceeds of all ships and vessels, their tackle, apparel, furniture, and the goods and effects, on board of them, which shall be so seized, prosecuted, and condemned, shall be divided equally between the United States and the officers and men who shall seize, take or bring, the same into port for condemnation, whether such seizure be made by an armed vessel of the United States or Revenue Cutter thereof: And the same shall be distributed in like manner as is provided by law for the distribution of prizes taken from an enemy. *Provided,* That the officers and men be entitled to one-half of the proceeds aforesaid, shall safe-keep every negro, mulatto, or person of color, found on board of any ship or vessel so seized, taken, or brought into port, for condemnation, and shall deliver

every such negro, mulatto, or person of color, to the marshal of the district into which they may be brought, if into a port of the United States, or, if elsewhere, to such person or persons as shall be lawfully appointed by the President of the United States, in the manner hereinafter directed, transmitting to the President of the United States, as soon as may be after such delivery, a descriptive list of such negroes, mulattoes, or persons of color that he may give directions for the disposal of them. *And provided further.* That the commanders of such commissioned vessels, do cause to be apprehended, and taken into custody, every person found on board of such vessel, so seized and taken being of the officers or crew thereof, and him or them convey, as soon as conveniently may be, to the civil authority of the United States to be proceeded against in due course of law, in some of the districts thereof.

Sec. 2. *And be it further enacted,* That the President of the United States be, and he is hereby, authorized to make such regulations and arrangements as he may deem expedient for the safe-keeping, support, and removal beyond the limits of the United States, of all such negroes, mulattoes, or persons of color, as may be so delivered and brought within their jurisdiction: And to appoint a proper person or persons, residing upon the coast of Africa, as agent or agents, for receiving the negroes, mulattoes, or persons of color, delivered from on board vessels, seized in the prosecution of the slave trade, by commanders of the United States armed vessels.

Sec. 3. *And be it further enacted,* That a bounty of \$25.00 be paid to the officers and crew of the commissioned vessels of the United States, or Revenue Cutters for each and every negro, mulatto, or person of color, who shall have been, as hereinbefore provided, delivered to the marshal or agent duly appointed to receive them: And the Secretary of the Treasury is hereby authorized and required to pay or cause to be paid to such officers and crews, or their agents, the aforesaid bounty, for each person delivered as aforesaid.

Sec. 4. *Be it further enacted,* That when any citizen, or other person, shall lodge information, to the attorney for the district of any state or territory, as the case may be, that any negro, mulatto, person of color, has been imported therein, contrary to the provisions of the acts in such case made and provided, it shall be the duty of the said attorney forthwith to commence a prosecution by information; and process shall issue against the person charged with holding such negro, negroes, mulatto, mulattoes, person or persons of color, so alleged to be imported contrary



to the provisions of the acts aforesaid: And if, upon the return of the process executed, it shall be ascertained, by the verdict of the jury that such negro, negroes, mulatto, mulattoes, person or persons of color, have been brought in, contrary to the true intent and meanings of the acts in such cases made and provided, then the court shall direct the marshal of the said districts to take the said negroes, mulattoes, or persons of color, into his custody, for safe keeping, subject to the orders of the President of the United States; and the informer or informers, who shall have lodged the information, shall be entitled to receive, over and above the portions of the penalties accruing to him or them by the provisions of the acts in such case made and provided, a bounty of \$50.00, for each and every negro, mulatto, or person of color, who shall have been delivered into the custody of the marshal; and the Secretary of the Treasury is hereby authorized and required to pay, or cause to be paid, the aforesaid bounty, upon the certificate of the clerk of the court for the district where the prosecution may have been had, with the seal of office thereto annexed, stating the number of negroes, mulattoes, or persons of color, so delivered.

Sec. 5. *And be it further enacted*, That it shall be the duty of the commander of any armed vessel of the United States, whenever he shall make any capture under the provisions of this act, to bring the vessel and her cargo, for adjudication, into some of the ports of the states or territory to which such vessels, so captured, shall belong, if he can ascertain the same; if not, then to be sent into any convenient port of the United States.

Sec. 6. *And be it further enacted*, That all such acts, or parts of acts as may be repugnant to the provisions of this act, shall be, and the same are hereby repealed.

Sec. 7. *And be it further enacted*, That a sum not exceeding one hundred thousand dollars, be, and the same is hereby appropriated to carry this law into effect.

Approved, March 3, 1819.

*Message of President Monroe Concerning Settlement of Captured Slaves in Africa — December 17, 1819.*

*To the Senate and House of Representatives of the United States:*

Some doubt being entertained respecting the true intent and meaning of the act of the last session entitled "An act in addition to the acts pro-

hibiting the slave trade," as to the duties of the agents to be appointed on the coast of Africa, I think it proper to state the interpretation which has been given of the act and the measures adopted to carry it into effect, that Congress may, should it be deemed advisable amend the same before further proceeding is had under it.

The obligation to instruct the commanders of all our armed vessels to seize and bring into port all ships or vessels of the United States where-soever found, having on board any negro, mulatto, or person of color, in violation of former acts for the suppression of the slave trade, being imperative, was executed without delay. No seizures have yet been made, but as they were contemplated by the law, and might be presumed, it seemed proper to make the necessary regulations applicable to such seizures for carrying the several provisions of the act into effect.

It is enjoined on the Executive to cause all negroes, mulattoes, or persons of color, who may be taken under the act to be removed to Africa. It is the obvious import of the law that none of the persons thus taken should remain within the United States, and no place other than the coast of Africa being designated, their removal or delivery, whether carried from the United States or landed immediately from the vessels in which they were taken, was supposed to be confined to that coast. No settlement or station being specified, the whole coast was thought to be left open for the selection of a proper place at which the persons thus taken should be delivered. The Executive is authorized to appoint one or more agents residing there to receive such persons, and \$100,000 are appropriated for the general purposes of the law.

On due consideration of the several sections of the act, and of its humane policy, it was supposed to be the intention of Congress that all the persons above described who might be taken under it and landed in Africa should be aided in their return to their former homes, or in their establishment at or near the place where landed. Some shelter and food would be necessary for them there as soon as landed, let their subsequent disposition be what it might. Should they be landed without such provision having been previously made, they might perish.

It was supposed, by the authority given to the Executive to appoint agents residing on that coast, that they should provide such shelter and food, and perform the other beneficent and charitable offices contemplated by the act. The coast of Africa having been little explored, and no persons residing there who possessed the requisite qualifications to entitle them to the trust being known to the Executive, to none such

could it be committed. It was believed that citizens only who would go hence well instructed in the views of their Government and zealous to give them effect would be competent to these duties, and that it was not the intention of the law to preclude their appointment. It was obvious that the longer these persons should be detained in the United States in the hands of the marshals the greater would be the expense, and that for the same term would the main purpose of the law be suspended. It seemed, therefore to be incumbent on me to make the necessary arrangements for carrying this act into effect in Africa in time to meet the delivery of any persons who might be taken by the public vessels and landed there under it.

On this view of the policy and sanctions of the law it has been decided to send a public ship to the coast of Africa with two such agents, who will take with them tools and other implements necessary for the purposes above mentioned. To each of these agents a small salary has been allowed — \$1,500 to the principal and \$1,200 to the other. All our public agents on the coast of Africa receive salaries for their services, and it was understood that none of our citizens possessing the requisite qualifications would accept these trusts, by which they would be confined to parts the least frequented and civilized, without a reasonable compensation. Such allowance therefore seemed to be indispensable to the execution of the act. It is intended also to subject a portion of the sum appropriated to the order of the principal agent for the special objects above stated, amounting in the whole, including the salaries of the agents for one year, to rather less than one-third of the appropriation. Special instructions will be given to these agents, defining in precise terms their duties in regard to the persons thus delivered to them, the disbursement of the money by the principal agent, and his accountability for the same. They will, also have power to select the most suitable place on the coast of Africa at which all persons who may be taken under this act shall be delivered to them, with an express injunction to exercise no power founded on the principal of colonization or other power than that of performing the benevolent offices above recited by the permission and sanction of the existing government under which they may establish themselves. Orders will be given to the commander of the public ship in which they will sail to cruise along the coast to give the more complete effect to the principal object of the act.

JAMES MONROE.

*Constitution of the Commonwealth of Liberia.*

Whereas it has pleased a Gracious Providence to favour with success, the benevolent efforts of the citizens of the United States of America, to plant Christian Colonies of free colored people, on the western coast of Africa, in order to lay a durable foundation for their future Union, Freedom and Independence, the following Constitution of Government is ordained and established.

## ARTICLE I.

Sec. 1. The several colonial settlements planted in Liberia, on the principles of the American Colonization Society, are hereby declared to be united under one Government, to be styled the Government of Liberia.

Sec. 2. The Colony of Monrovia and the several Settlements appurtenant thereto, shall make one Colony, under the common title of "Monrovia;" the Colonies at Cape Palmas and Bassa Cove shall maintain their present denomination, or receive such other as the associated Colonization Societies of New York and Pennsylvania, and the Maryland State Society, may hereafter respectively bestow on them.

ARTICLE II. *Of the Legislative Power.*

Sec. 1. There shall be a Legislature, entitled the Congress of Liberia, which shall hold one session, at least, in every two years, at the town of Monrovia; or at such other place as the Congress shall from time to time appoint. The first meeting shall be held on the first Monday in December next following the ratification of this Constitution; and all succeeding meetings shall commence at such periods as the Congress may prescribe.

Sec. 2. The Congress shall consist of the Chief Executive Magistrate of each of the Colonies of Monrovia, Cape Palmas, and Bassa Cove, and of five Delegates, to be elected by the Legislative councils of the said Colonies, in such manner as they may respectively provide, in the proportion of three for the Colony of Monrovia, and one for each of the other Colonies; and the said delegates shall receive for their services, such compensation as their respective councils may determine and pay.

Sec. 3. The Governor of Monrovia shall preside over the deliberations of the Congress; and in case of his absence, death, resignation, or inability, such one of the other Colonial Governors as a majority of the delegates present may elect. In the absence of those Governors, a President, for the time being, shall be, in like manner, chosen from the delegates present.

Sec. 4. It shall be the duty of the President to call the members to order, and to preserve decorum in the debates and proceedings of Congress, according to such rules as they may adopt for their government. In his absence from the chair, for a period not exceeding one day, he may call on any other member to preside in his place. He shall be entitled to vote in all cases in which he is not personally interested, and shall, moreover, give the casting vote whenever the Congress is equally divided on any question.

Sec. 5. The presence of a majority of all the members shall be necessary to constitute a quorum for the transaction of business, but a less number may adjourn from day to day till a quorum be formed, and may be authorized to compel the attendance of the absent delegates, in such manner, and in such penalties as the Congress may provide.

Sec. 6. The Congress shall be the sole judge of the elections, returns and qualifications of the several delegates thereto, may determine the rules of its proceedings, punish its members for disorderly conduct; and, with the concurrence of two-thirds, expel a delegate. Shall keep a fair journal of its proceedings, and from time to time, publish the same; except such parts thereof as may, in their judgment, require secrecy; and the yeas and nays of the members, on any question, shall by the desire of any two or more members be entered on the journal. They shall, by the first opportunity, transmit a copy of their entire journal to the American Colonization Society; they shall appoint a recording Secretary and such other officers as may be necessary to the transaction of business and fix their respective compensation, which shall be paid by the several Colonies on a ratable assessment, according to their respective representation.

In all cases except treason, felony, and breach of peace, the delegates shall be privileged from arrest, during their attendance in Congress, and in going to and returning from the same; and for any speech or debate therein, they shall not be questioned in any other place.

Sec. 7. No person shall be chosen as a delegate from any Colony who shall be under twenty-five years of age at the period of his election; nor unless he be, at such period, a citizen of Liberia, and have been an inhabitant of the Colony for which he is elected, for at least six months prior to his election.

Sec. 8. Congress shall have power to prescribe uniform rules of naturalization for all persons of colour, provided that all persons now citizens of any Colony of Liberia, shall continue to be so. and that all

coloured persons emigrating from the United States of America, or any district or territory thereof, with the approbation, or under the sanction of the American Colonization Society; or of any Auxiliary Society or the same, or of any State Colonization Society of the United States, which shall have assented to this Constitution of Government, shall be entitled to all the privileges of citizens of Liberia; except the same shall have been lost or forfeited by conviction of some crime.

Sec. 9. They shall have power to fix the standard of weights and measures, until the Congress of the United States of America shall have prescribed some standard of the same, when the American, shall become the standard of Liberia.

Sec 10 They shall have power to settle the value of any African money, in the metallic currency of Liberia, which currency shall, in all other respects, be the same with that of the United States.

Sec 11. In time of war or insurrection, or of imminent danger thereof, they shall have power to emit bills and to borrow money on the credit of Liberia, under such restrictions and limitations as may be provided by the American Colonization Society; and at such times they shall have power to provide a treasury for the common defence, to appoint a treasurer and such other officers or agents as may be necessary to the collection and disbursements of the public money, no part of which shall be appropriated but by an act, or resolution of Congress; the treasury shall be supplied by a ratable assessment of such sums, as may be necessary, upon the several Colonies; which, until a more equitable mode can be provided, shall be in proportion to the number of delegates, in the Congress, elected by each Colony; such sums, to be assessed, collected, and paid by, or in pursuance of the acts, or orders, of the respective Legislative Councils of the Colonies, and all expenses incurred for the common defence shall be chargeable upon and paid out of the said treasury.

Sec. 12. The Congress shall have power to declare war, in self-defence, and make rules concerning captures on land and water; to raise and support armies in time of actual war; but no appropriation of money to that use shall be for a longer period than two years.

To provide and maintain a navy in time of war.

To make rules for the government of the land and naval forces.

To provide for organizing and disciplining a militia, and for governing such part of them as may be employed under their authority; and to appoint over them, when so employed, or select from among them, the General, Brigade, and Regimental Staff officers: and to appoint and

commission, for the existing war, all other officers in command thereof, of higher grade than the commandants of companies: reserving to the Colonial Governments respectively, the appointment at other times of all their militia officers, and in time of war, of all officers of militia whose appointment is not hereby vested in the Congress of Liberia.

Sec. 13. The Congress shall have power to make treaties with the several African tribes and to prescribe for regulating the commerce between Liberia and such tribes: but they shall enter into no treaty or alliance, nor ascertain and assess the sum and expenses necessary to the common defence, nor emit bills, nor borrow money on the public credit, nor agree upon the number of vessels of war to be built or purchased, or the number of land and sea forces should be raised, without the assent of two-thirds of the members present.

Sec. 14. Congress shall have power to render uniform the tariff of duties on foreign imports into the territory of Liberia; but, in doing so, shall give no preference to one port thereof over another; and all such duties shall be collected by, and paid into the treasuries of the respective Colonies under the authority of their respective Legislative Councils.

Sec. 15. Congress shall impose no duty on the exports of any Colony, nor shall any Colony impose any duty on the entry or transportation of the produce or manufactures of any other Colony arriving in the same.

Sec. 16. The Congress may establish a communication by post, between the several Colonies and fix the rate of postage, but the proceeds thereof shall be paid into the treasuries of the several Colonies in which the same may be collected, and the officers required to sustain such communication, shall be appointed under the authority of the Colonial Legislatures, in such mode as they may respectively prescribe, and be paid such compensation as their respective Colonial Legislatures may provide out of the proceeds of the postage.

### ARTICLE III. *Of the Executive Power.*

Sec. 1. The Supreme Executive power of the Government of Liberia shall be vested in the Governor of the Colony of Mourovia, whose title shall be "President of Liberia and Governor of Monrovia," and in a council to consist of the several Colonial Governors or a majority of them. The President shall, if empowered, perform the duties of Agent of the United States of America for the reception of recaptured Africans, provided that, if any other person shall be appointed to such agency, he may, also, be a member of the Executive Council with a right to debate, but not to vote on any question.

Sec. 2. During the recess of the Congress all vacancies in the several offices created and filled by them shall be filled on the nomination of the President with the advice and consent of the Council, if present — if absent, by the President alone; and all such officers, so appointed, shall hold their offices until the expiration of the ensuing session of Congress.

Sec. 3. The President shall be, ex-officio commander in chief of the Land and Naval forces of Liberia, and of such portion of the militia as may be called into the service thereof. He shall receive his appointment from the American Colonization Society and shall be removable at their pleasure.

Sec. 4. The Executive power of the Colonies of Cape Palmas and Bassa Cove shall be vested in a Governor and such councillors, and inferior officers and agents, as the constitutions adopted for these Colonies by their respective Societies, may provide.

#### ARTICLE IV. *Of the Judicial Power.*

Sec. 1. The Judicial Power of the Government of Liberia shall be vested in a Supreme Court, to consist of the President of Liberia and the Governors of the several Colonies, and in such other Courts as the Congress may establish by law; and shall extend to all cases arising under this Constitution of Government; and the treaties and laws made in conformity therewith; to all cases in which controversies arise between citizens and other nations, or between such citizens and the colonists; to all cases in which controversies may exist between the Colonies themselves, and to all cases wherein the rights or privileges of any minister, diplomatic agent, or representative of any of the African tribes may be involved.

Sec. 2. In all cases between the Colonies themselves; or which may threaten to disturb the peaceful relations between Liberia and other nations, or the several African tribes, the Supreme Court shall have original jurisdiction. In all other cases it shall have appellate jurisdiction only.

Sec. 3. The decisions of the Supreme Court shall be conclusive evidence of the construction of the Constitution, treaties, and laws, and with the treaties and acts of Congress shall have paramount authority to the acts of the several Colonial Legislatures and the decisions of their Courts; from the latter an appeal may be taken whenever those decisions involve the construction of any treaty, act of Congress, or prior decision of the Supreme Court of Liberia.



## ARTICLE V.

Sec. 1. The assent of all the parties thereto, shall be necessary to any amendments of this Constitution ; and the American Colonization Society shall have power to provide the mode of ascertaining and proclaiming such assent to any future amendment.

The Citizens of the several Colonies shall be entitled in every Colony to all the rights, privileges and immunities of the citizens of such Colony.

No order of nobility, nor hereditary political distinction of any sort shall be admitted in any Colony. No law shall be passed abridging the liberty of speech or of the press, nor any preference be given to one religious creed, institution, or denomination, over any other, but every person shall be allowed to worship God according to the dictates of his own conscience.

No law shall be passed to prevent the people from peaceably assembling to petition for a redress of grievances ; nor shall any religious test be enacted as a qualification for office.

The property of no person shall be taken for public use, without just compensation ; and in all criminal cases the trial by jury shall be preserved inviolate.

The writ of habeas corpus, shall not be suspended except in time of actual invasion or insurrection, and the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated ; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

*Report on African Colonization.*

[February 28, 1843, H. Rep. No. 283, 27 Cong. 3d sess.]

Mr. J. P. Kennedy, from the Committee on Commerce, submitted the following

## REPORT :

The Committee on Commerce, to whom was referred the memorial of the friends of African colonization, assembled in convention in the city of Washington in May last, beg leave to submit the following report :

The necessity of making some provision for the colonization and settlement of the free colored population of this country began, at an early

period, to attract the attention of the public. During the administration of Mr. Jefferson, the State of Virginia made an application to the General Government for aid in this purpose. That State desired to originate some measure which should provide an asylum for this population, either on the coast of Africa or in some other appropriate region beyond the limits of the Union. Resolutions were more than once adopted by its Legislature, expressive of the interest which the State felt in the subject, and of the importance attached to it; and at length the Governor was directed, in 1816, when Dr. Finley was employed at Washington in his memorable enterprise of establishing the American Colonization Society, to correspond with the President for the promotion of that design. The assistance of the Senators and Representatives of the State was invoked to the same end.

The society was founded in December, 1816. It comprised many eminent individuals from the several States; was characterized by its freedom from sectional distinctions; enlisted the aid of men from every quarter of the Union; and was generally received and applauded as a beneficent and highly national undertaking.

Its design, as set forth in an article of its constitution, was to act "in co-operation with the General Government and such of the States as might adopt regulations on the subject." Virginia, Maryland, Tennessee, and Georgia, were the first to respond to the invitation invoking their assistance. They passed resolutions recommending the subject to the country, and generally announced their accordance in the opinion, expressed by Mr. Jefferson, that it was desirable the United States should undertake the colonization of the free people of color on the coast of Africa.

The society, very soon after its organization, laid its plans before Congress, and solicited the countenance and support of that body. The best disposition was manifested towards it, and it may be set down to its praise, that one of the earliest and most valuable results of its labors was the adoption by Congress of more energetic measures for the suppression of the slave trade. That trade was denounced as piracy, and subjected to the penalties of such an offence. Foreign States were invited to co-operate in the effort to destroy this trade, by treating it in the same manner; and upon this foundation has eventually grown up that active, and, it is to be hoped, effective hostility to the traffic, which shall succeed in its ultimate abolition. In regulating this subject, at that time, Congress passed an act by which the right of any State to dispose of captured

Africans brought within the territory of the United States, in contravention of its laws, was revoked, and the President was clothed with authority to restore these unfortunate beings to their native country.

Mr. Monroe, believing that the benevolent views of Congress in reference to recaptured Africans demanded that due provision should be made for their shelter, sustenance, and defence, temporarily, at least, after their arrival in Africa, and this could only be secured through the services of an agent empowered to superintend the subject by actual personal examination and assistance, interpreted this act to confer the powers which he deemed essential to its effectual application. This opinion he communicated to Congress by special message, and expressed his determination to proceed in the accomplishment of the objects of the law, by co-operating with the Colonization Society in the selection of a station for the temporary or permanent residence of such Africans as might be brought within the description of the case provided for.

Proceeding still further in the same design, when the society had obtained possession by purchase of the tract of country since designated by the name of Liberia, Mr. Monroe directed that the recaptured negroes should be placed upon its soil, under the care of an agent of the Government, with such supplies and assistance as might enable them, should they desire it, ultimately to attain the advantages which it was the purpose of the society to secure to those who might, under their auspices, voluntarily engage in the establishment of their colony.

Thus the colony of Liberia rose into existence, both as a home for recaptured Africans, restored by the humanity of our Government to their own country, and as a well-organized community of free colored men, prepared and disposed to extend their useful arts, civilized laws, and Christianity, both along the coast and into the interior of Africa.

About half the States of the Union have expressed their decided approbation of the scheme of African colonization, and the citizens and Legislature of Maryland have proceeded to plant a flourishing colony at Cape Palmas. Through the efforts and under the influence of the American Colonization Society, nearly twenty eligible tracts of country have been purchased between Cape Mount and Cape Palmas, and on many of them promising settlements established. The enterprise is demonstrated to be practicable, and capable of indefinite extension. Though the colonies embrace but a few thousand emigrants, their salutary influence is widely felt, and many thousands of the native population have sought their protection, submitted to their laws, and enjoy the advantages of their

instruction. Able and dis-interested citizens of the United States have, from time to time, devoted themselves to their interests, and, under the authority of the colonization societies, have assisted them to frame their social institutions, their government and laws. They exhibit to the eyes of a barbarous people the model of a free, temperate, industrious, civilized, and Christian society. They have legislative assemblies, courts of justice, schools, and churches. Though having enjoyed in this country but very imperfect means of improvement, and left it with small means, they have done much for themselves, and much for civilization and Christianity — have enacted laws for the extirpation of the slave trade, and, wherever their rightful authority exists, executed them with vigor; they have successfully engaged in agriculture and in lawful commerce; they have opened the way for many Christian missionaries, of different communions, to the heathen tribes, and afforded them protection and facilities in their work. In fine, Liberia and the Maryland settlement at Cape Palmas present themselves to this country and the world, not only as eligible asylums for our free colored population, and for such as may become free, but as republican and Christian States informed by the elements of indefinite growth and improvement, capable, duly countenanced, and guarded against the interference of unfriendly Powers, of rising to honor and greatness, and of diffusing the influence of its laws and example over wide districts of Africa.

Adverting to the fact that the suppression of the slave trade has been, almost from the origin of this Government, an object of interest to our people, and that it is now still more earnestly sought by the most enlightened nations; that this trade, being nurtured only in the *barbarism* of Africa, may be soon checked and ultimately overthrown by the efforts of the colonies planted by our citizens; that the colonies now established have most obviously stimulated the industry of the natives in their vicinity, have created a commerce which promises every day to become more valuable; and have auspiciously begun the beneficent labor of African civilization; that they furnish shelter and refreshment to our own ships and seamen, and are growing into importance as ports and depots for our naval squadrons; and, above all, that they have been founded by the benevolence of our citizens and public authorities, with the laudable purpose of giving a safe and prosperous home to that portion of our population, who, however disqualified by our laws or our habits from being incorporated, with advantage to themselves, into our political society, are still entitled, as dependants upon our guardianship,

to our sympathy and support. Adverting to all these considerations, the committee are of opinion that the colonies of Liberia and Maryland, now existing, and those which may hereafter be established on the African coast, may justly invoke the regard of the Government, and ask from it some measure of protection and support.

In what mode and to what extent these should be afforded, is a question of more doubt and greater difficulty. Many of the earliest and most distinguished friends of African colonization, both in and out of Congress, regarded the efforts of the American Colonization Society as experimental, and preliminary to the action of Government, and soon after its origin avowed the opinion "that Congress ought to be requested to take under its protection the colony already planted, to make provision for its increase by suitable appropriations of money, and by authorizing the President to make further purchases of land from the natives, as it might be wanted; to provide for its security, internal and external, by such regulations for its temporary government as might be deemed advisable, by authorizing the President to employ a suitable naval force, as well for the more effectual suppression of the slave trade as for the purpose of impressing the natives with respect for the establishment; and to make provision for the purchase, from time to time, of suitable territories on the southwestern coast of Africa, for the establishment of other similar colonies, as fast as they could be formed, with due regard to the national resources and to the public good."

An application to Congress for such aid was urged by the late General Harper, in a report made by him, as chairman of a committee, to the society, in 1824; and although he observed "it might be doubted whether, on a subject so vast in its consequences and connexions, and so new, Congress would act immediately, this did not furnish any sufficient reason for delaying the application. Time must be allowed for viewing the subject in all its bearings — for reflecting on it maturely, and for public opinion to receive and communicate the proper impulse. Nothing," he adds, "the committee apprehend, will tend so effectually to produce and hasten these desirable results, as full discussions and explanations of the whole subject in Congress."

Whilst the committee duly appreciate those high considerations of patriotism and philanthropy by which the opinions just cited were sustained, and cherish the belief that, at a period not very remote, the enterprise of African colonization is to be prosecuted by this nation with an energy and on a scale far transcending any as yet realized in the actual

condition of the colonies now planted, they see grounds for hope, that at a moderate expense, and with that aid and countenance which can be readily granted, without fully assuming all the hazards and responsibilities of a system of colonization, their permanency, growth, and prosperity, may be secured.

It is vitally important that the territory of the colonies should be enlarged, and that their jurisdiction should become clear and incontestable over the whole line of coast between Cape Mount and Cape Palmas, a distance of about three hundred miles; and that, in case of hostilities between this and any European country, their rights as neutrals should be recognised and respected. The increase of legitimate commerce on the western coast of Africa is already strongly tempting the enterprise of English merchants; and serious difficulties have arisen between British traders, claiming rights, independent of the Government of Liberia and Maryland, within their territorial limits. Naval officers of Great Britain have been called on by British subjects to interpose and defend them against the revenue laws of the colonies; and the French, the committee are informed, have sought to obtain a cession of lands within the limits of Liberia, just referred to, and to which the people of that colony have a pre-emptive right.

As neither Great Britain nor any European Government has, to the knowledge of the committee, claimed political jurisdiction from Cape Mount to Cape Palmas; as such claim, if by possibility it exists, has arisen long since the colonies were founded, as those who occupy those settlements have gone thither to establish for themselves, their posterity, and multitudes who may follow them, a republican commonwealth, capable of indefinite enlargement, it is essential that they be not disturbed in the exercise of rights already acquired, or precluded from extending their authority over the entire line of coast (from Cape Mount to Cape Palmas) generally known as Liberia. An appropriation of a few thousand dollars, to enable the colonists to effect negotiations with the native chiefs, by which their title to this region of Africa should be extinguished, and the jurisdiction of their Government over it rendered unquestionable, would, in the judgment of your committee, whether regarded as a measure auxiliary to the suppression of the slave trade, or to the interests of American commerce be highly expedient. In all treaties for the purchase of lands, it might be stipulated, that, on the part of the African chiefs, the slave trade should be forever abandoned, and their attention be directed to the more gainful pursuits of agricul-

tural industry, and to the exchange of the rich products of their country for those of the manufacturing skill of this and other civilized nations. The people of the colonies, thus encouraged, would co-operate most effectively with our naval squadron in carrying out the humane and philanthropic purpose of the recent treaty for the overthrow of the slave trade, and become factors and agents to increase and extend American commerce in that quarter of the world. It is believed that \$20,000 thus expended would effect more for the furtherance of both these objects than \$100,000 expended in any other way.

The committee have abundant evidence, to which they refer in the documents accompanying this report, to show the increase of lawful commerce on the African coast, and that, for want of adequate protection, and the due attention of our Government to the subject, it has been prosecuted by our own citizens under great disadvantages. To the testimony of Dr. James Hall, a gentleman entitled to full confidence, and who has resided long in Africa, the committee invite the special attention of the House. This testimony is confirmed by the information recently given to the world in the report and accompanying documents of a committee of the English House of Commons, appointed to inquire into the condition of the British settlements and their relations to the native tribes of western Africa.

The annual imports from western Africa into this country probably exceed a million dollars, and into Great Britain are about four millions. The palm oil trade, now becoming of great value, had hardly an existence twelve years ago, is rapidly increasing, and may be increased to an almost indefinite extent. Hitherto, the slave trade has been at war with all improvement and every kind of innocent commerce. Its cessation will be succeeded by the cultivation of the soil, and the growth of trade in all the varied and valuable productions of the African climate. It is of infinite importance that the natives of Africa should be convinced that agricultural labor and the substitution of lawful trade for the infamous commerce in human beings will be for their advantage; and that, in their intercourse with them, our own merchants should possess every privilege granted to those of England, or any other nation.

The establishment of a commercial agency, (as recommended by Dr. Hall,) to reside in Liberia, and occasionally to visit, in a Government vessel, various points on the coast, to ascertain the best sites for mercantile establishments, to form conventions and treaties of commerce and for the suppression of the slave trade with the principal chiefs, to take

charge of the stores and other property sent out for our ships of war, to guard the rights and interests of our seamen, and secure for American vessels a free and unrestrained right of trade at all important stations, the committee would recommend as an object urgently demanded by interest and humanity.

The time has arrived, in the opinion of the committee, when this subject of African colonization has become sufficiently important to attract the attention of the people, in its connexion with the question of the political relations which these colonies are to hold with our Government. Founded partly by the private enterprise of American citizens and partly by the aid of the Federal and State authorities, recognised as political communities by our laws, and even owing their regulation in some degree to the legislation of a State of this Union, (as in the case of Maryland) they have attained a position in which, obviously, they must very soon become objects of consideration to the world, both for the commerce which may be under their control, and for the agency they are likely to exercise in the final disenthralment of the continent to which they belong. It may speedily become apparent to the observation of Christendom, that the slave trade may more certainly, effectually, and cheaply be destroyed by the colonial power on shore than by all the squadrons of Europe and America afloat. The growth of such a conviction will inevitably draw an anxious and friendly eye towards the American colonies, from every Power which sincerely pursues the charitable work of relieving Africa from her horrible traffic, and mankind from the reproach of permitting it. The influence of such a sentiment, we may conceive, will greatly advance the interests and magnify the value of the colonies. It would appear to be our duty, before an occasion of conflicting interest may arise, to take such steps towards the recognition of our appropriate relations to these communities as may hereafter secure to them the protection of this Government, and to our citizens the advantages of commercial intercourse with them.

The idea of an American colony is a new one. It is manifestly worthy of the highest consideration. The committee see nothing in our Constitution to forbid it. We have establishments of this nature, though somewhat anomalous in the character of their dependence upon our Government, in the Indian tribes which have been placed beyond the limits of the States, on the purchased territory of the Union. The African settlements would require much less exercise of political jurisdiction, much less territorial supervision, than is presented in the case of



these tribes. They would require aid towards the enlargement of territory, occasional visitation and protection by our naval armaments, a guarantee, perhaps, to be secured to them by the influence of our Government, of the right of neutrality in the wars that may arise between European or American States. They would stand in need of the highest commercial privileges in their intercourse with this the mother country; and the reciprocation of such privileges, on the part of the colonies, to our citizens, would doubtless be an object to be secured on our side. Questions of commercial regulation would frequently arise, demanding the care and supervision of this Government. The profitable trade of our citizens may be deeply involved in the adjustment of such questions. The interest which we may have hereafter in this subject is one which it would be impolitic for us to neglect or abandon.

The Committee, without further exposition of a subject which presents topics for a large discussion, and which abounds in considerations of the highest magnitude and concern, have thrown out these general views, in the hope that the attention of the country may, at an early moment, be attracted to their examination, through which a plan may be devised for the permanent and prosperous guidance of the colonies. For the purpose of aiding in this examination, and in illustration of the views contained in this report, the committee have appended sundry documents hereto, to which they beg leave to refer.

They submit with this report the following resolutions:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the increasing importance of the colonies on the western coast of Africa, both in regard to the commerce of that coast and their influence in suppressing the slave trade, renders it expedient that an agent should be appointed by the Government, to protect and advance the interests of American trade in that region; that said agent should reside at some convenient point in the said colonies; and that he should be empowered to form treaties or conventions with the native tribes on the coast of Africa, for the advancement of American trade, and for the suppression of the traffic in slaves.

*And be it further resolved,* That the subject of settling the political relations proper to be adopted and maintained between this Government and the colonies now established, or which may hereafter be established, on the coast of Africa, by the citizens or public authorities of the United States, or of any of the States, be referred to the Secretary of State, with a direction that he report thereon to the next Congress.

*Colonization Society to Mr. Webster, Secretary of State, requesting  
intervention in behalf of Liberia.*

December 22, 1842.

Sir: I have the honor to communicate the following resolution adopted on the 2d instant, by the executive committee of the American Colonization Society:

"Resolved, That the secretary confer with the Secretary of State on the subject of the difficulties existing between the colony of Liberia and British traders; also, prepare a communication on the subject, either to him or to our minister in England, Mr. Everett, as shall be judged; also, communicate the correspondence between the Governor of Liberia and certain British Naval officers on the coast of Africa, the Secretary of State and Secretary of the Navy."

You sir, are well acquainted with the origin, design, and general proceedings of the American Colonization Society. It was organized by benevolent individuals, from different sections, and various States of the Union, in December, 1816, and was created a body corporate by an act of the legislature of Maryland, in December, 1831, which act, somewhat amended and enlarged, was renewed in March, 1837. The object of this Society, as defined in the second article of its constitution, "is to promote and execute a plan for colonizing, with their consent, the free people of color residing in our country, in Africa, or such other place, as Congress shall deem expedient; and the Society shall act, to effect this object, in co-operation with the General Government, and such of the States as may adopt regulations on the subject."

The founders of this society regarded their scheme as one of enlarged humanity towards the whole African race; and believe that, if perseveringly prosecuted, with adequate means, it must confer rich blessings upon our free people of color, encourage emancipation, aid to suppress the slave trade, and establish a civilized and free government and the christian religion upon the coast of Africa. They early addressed memorials for countenance and support to the State Legislatures and to the General Government. Congress, at their suggestion, adopted more effectual measures for the suppression of the slave trade, and, revoking forever the authority of any State Legislature to dispose of such unfortunate Africans as, in violation of law, were brought under their jurisdiction: authorized the President of the United States to make such regulations and arrangements as he might deem expedient for the safe-

keeping, support, and removal beyond the limits of the United States, and to appoint a proper person or persons, residing upon the coast of Africa, as agent or agents for receiving those persons of color delivered from on board vessels seized in the prosecution of the slave trade by the commanders of the United States armed vessels.

The then President of the United States, Mr. Monroe, perceiving that the benevolent provision of this law for the benefit of the recaptured Africans might be most economically and effectually fulfilled by securing a home for these persons within the limits and under the protection of such colony as might be founded by the efforts and donations of the members and friends of this society, determined to act in cooperation with the society in regard to the station to be chosen for the temporary or permanent (as might be) residence of such Africans; and when the society had obtained possession, by purchase of a portion of the tract of country in Africa, since designated by the name of Liberia, such persons were placed upon its soil, under the care of an agent of the Government, and such means of subsistence and defence as might enable them ultimately to attain the advantages which it was the endeavor of the society to secure all free voluntary emigrants to their colony.

Thus, the colony of Liberia rose into existence both as the home of recaptured Africans, humanely restored by our Government to their country, and as a well-organized community of free colored men, prepared and disposed to extend their useful arts, laws, civilization, and christianity, far above the native population of Africa.

The society proceeded without delay to explore the western coast of Africa, and to obtain, by fair negotiation with the native tribes, and by actual purchase, eligible tracts of country, for colonial settlements. Enterprising free men of color were assisted to emigrate, organized into a government after their own republican model, and by some of our own citizens devoted to their interests, and eminently qualified to be their guides, instructed in their social and political duties. They constitute a free and christian commonwealth, comprising a population of several thousand persons, they have founded churches, schools, tribunals of justice, the press, and made successful experiments in agriculture and commerce. Laws are enacted by legislative council chosen by the people, while all engaged in their administration (the Governor alone excepted, who is appointed by the society) derive their authority from the same source. The missionaries of several communities have entered through the various avenues, and under the protection of this colony, upon their benevolent

enterprise among the native Africans, many of whom have sought refuge within its bounds and submitted to its government. By the law of Liberia, slave trade is denounced as piracy, and is utterly driven from every spot over which it has the power or right to extend control. As the numbers of the colony have increased, no means at its command have been neglected for the acquisition of territory; and while many points from Cape Mount to Cape Palmas (a distance of nearly 300 miles) have been secured by absolute cession, the right of pre-emption exists towards others, and it is of great importance to bring this whole line of coast under the government of Liberia. The correspondence heretofore placed in your hands, between Governor Roberts and certain English naval officers, and that which I have the honor herewith to transmit, shows the difficulties which have arisen from the interference of certain British traders to the rights of the colony and the still more serious difficulties to be apprehended. Under color of a prior claim granted by certain native African chiefs to individual Englishmen to establish factories for trade, or to occupy small portions of land purchased for the same purpose by Englishmen, the political jurisdiction of the colony over territory ceded to the colonial government is called in question, and the aid of British naval officers invoked to prevent the enforcement of the several revenue laws of the colony.

As neither the government of Great Britain, nor any European government, claim, as far as we know, any political jurisdiction from Cape Mount to Cape Palmas; as such claim, if by possibility it may exist, has arisen long since the establishment of the colony and government of Liberia; as this colony is composed of enterprising free men of color from the United States, who have gone, aided by benevolent American citizens, to plant themselves as a free, independent, and christian community, on this remote and barbarous coast, in the hope of rising to honor and power as a civilized state, attracting to it the unfortunate and widely disbursed children of Africa, from this and other lands, while exerting renovating influence on home population, — it is essential that they be not discouraged in the possession of rights already acquired, or precluded from extending their influence and laws over the entire line of coast (from Cape Mount to Cape Palmas) generally known as Liberia.

The executive committee venture to solicit your friendly interposition, in such a way as you may deem it expedient, with the governments of Great Britain, and France, to prevent any interference by these governments themselves, or their citizens, to the rights and interests of the

colonial settlements of Liberia, and also a recognition of the just title of these settlements to be regarded as neutral.

The late Secretary of State for the colonies of Great Britain, Lord John Russell, assured me of the disposition of Her Majesty's ministers to consider with candor the claims of Liberia, provided the subject was brought to its notice through the channels of our government; and Dr. Lushington, judge in the court of admiralty, promised his best offices to secure from the various European Governments a recognition of the neutrality of this colony.

Inasmuch as nearly half the States of this Union have expressed, through their Legislatures, the approbation of the cause of African colonization, and several invoked in its behalf the aid of the General Government and others made valuable appropriations of money to promote it; and since the Congress of the United States has repeatedly referred this subject to select committees, and by the act of March 3d, 1819, (passed in consequence of a memorial of the American Colonization Society,) authorizing the President of the United States to provide for the removal of recaptured Africans to the coast of Africa and their temporary support and defence there, indicated the policy which the executive has adopted of placing such unfortunate persons on its soil and under the protection of this colony; and since the government and people of Liberia are contributing very effectually, and, in their progress, will still more contribute, to that great object of humanity and religion, to which the United States and England stand pledged together and the world by their recent treaty — the overthrow of the slave trade; and finally, since the permanency and growth of this colony are very important to American commerce, and of inestimable value to the interest of civilization and christianity in that quarter of the globe (to say nothing of its relation to great and agitating questions in this country), we trust that you may see reasons for bringing its difficulties and claims distinctly to the consideration of the governments of Great Britain and France.

While it is deeply regretted by the committee that the hopes of the founders of the American Colonization Society, in regard to support for their scheme from the State and National Governments, have not, as yet, been fully realized, and the colonists of Liberia are left without adequate assistance and protection from this nation, they see in their weakness and exposure, as well as in their lofty purpose, self-denying energy, christian fortitude, and virtuous conduct, the strongest recommendation to the confidence and friendly regards of all civilized and powerful nations.

*Mr. Webster, Secretary of State, to Mr. Everett, Minister to Great Britain.*

March 24, 1843.

Sir: I send you, in addition to the papers transmitted with my letter of the 5th of January last, several notes recently addressed to me by the secretary of the American Colonization Society, together with the printed documents, &c., accompanying them.

Mr. Gurley's first communication is dated on the 13th, and the other two on the 16th inst. Taken in connexion with those previously forwarded to the legation, they show that the wishes of the colonists, in regard to the territorial extent of their settlements, are quite reasonable—the settlements extending southeasterly from Cape Mount to Cape Palmas, a distance of about three hundred miles only; and these notes, too, explain the nature of the relations existing between Liberia and the United States. Founded principally with a view to the melioration of the condition of an interesting portion of the great human family, this colony has conciliated more and more the good-will, and has, from time to time, received the aid and support of this Government. Without having passed any laws for their regulation, the American Government takes a deep interest in the welfare of the people of Liberia, and is disposed to extend to them a just degree of countenance and protection.

*Mr. Fox, British Minister, to Mr. Upshur, Secretary of State,*  
August 9, 1843.

Sir: I had recently the honor to state to you, verbally, that her Majesty's Government have, for some time past, been desirous of ascertaining, authentically, the nature and extent of the connexion subsisting between the American colony of Liberia, on the coast of Africa, and the Government of the United States.

Certain differences which have arisen, and which, I believe, are still pending, between British subjects trading with Africa on the one hand, and the authorities of Liberia on the other, render it very necessary, in order to avert for the future serious trouble and contention in that quarter, that her Majesty's Government should be accurately informed what degree of official patronage and protection, if any, the United States Government extend to the colony of Liberia, how far, if at all, the United States Government recognize the colony of Liberia, as a national

establishment; and consequently, how far, if at all, the United States Government hold themselves responsible towards foreign countries for the acts of the authorities of Liberia.

It is also very desirable, if the United States Government recognize and protect the colony of Liberia, that her Majesty's Government should be authentically informed what are considered to be the territorial limits of the colony; and also, by what title the amount of territory so claimed has been acquired. For it appears that (during the last year, in particular) the authorities of Liberia have shown a disposition to enlarge very considerably the limits of their territory; assuming to all appearance quite unjustifiably, the right of monopolizing the trade with the native inhabitants along a considerable line of coast, where the trade had hitherto been free; and thus injuriously interfering with the commercial interest and pursuits of British subjects in that quarter.

It is not for a moment supposed that the United States Government would, either directly or indirectly, sanction such proceedings; but, in case of its becoming necessary to stop the further progress of such proceedings and of such pretensions, it is very desirable, in order, as before mentioned, to avert causes of future dispute and contention, that her Majesty's Government should be informed whether the authorities of Liberia are themselves alone responsible on the spot for their public acts; or whether, if they are under the protection and control of the United States Government, it is to that Government that application must be made when the occasions above alluded to may require it.

*Mr. Upshur, Secretary of State, to Mr. Fox, British Minister,  
September 25, 1843.*

Sir: I have the honor to acknowledge the receipt of your letter of the 9th of August last, enforming me that her Majesty's Government have, for some time past, been desirous of ascertaining authentically the nature and extent of the connexion subsisting between the American colony of Liberia, on the coast of Africa, and the Government of the United States; and requesting me to give you the desired information.

The colony, or settlement, of Liberia was established by a voluntary association of American citizens, under the title of the American Colonization Society. Its objects were, to introduce christianity and promote civilization in Africa; to relieve the slave-holding States from the inconvenience of an increase of free blacks among them; to improve the

condition and elevate the character of those blacks themselves, and to present to the slave-holder an inducement to emancipate his slaves, by offering to them an asylum in the country of their ancestors, in which they would enjoy political and social equality. It was not, however, established under the authority of our Government, nor has it been recognized as subject to our laws and jurisdiction.

It is believed that the society has confined itself strictly to the professed objects of its association. As an individual enterprise, it has no precedent in the history of the world. The motives which led to it were not those of trade, nor of conquest; the individuals concerned in it promised themselves no personal advantage nor benefit whatever. Their motives were purely philanthropic, and their objects strictly disinterested. In spite of the unexampled difficulties with which they have had to contend, they have, by patience and perseverance, succeeded in placing their colony upon a safe and prosperous footing. It is just beginning to exert, in a sensible degree, its beneficent influences upon the destinies of the African race; and promises, if it be duly sustained, to do much for the regeneration of that quarter of the globe. Hence it has received, as it richly deserves, the respect and sympathy of the whole civilized world. To the United States it is an object of peculiar interest. It was established by our people, and has gone on under the countenance and good offices of our Government. It is identified with the success of a great object, which has enlisted the feelings, and called into action the enlarged benevolence, of a large proportion of our people. It is natural, therefore, that we should regard it with greater sympathy and solicitude than would attach to it under other circumstances.

This society was first projected in the year 1816. In 1821 it possessed itself of a territory upon the continent of Africa, by fair purchase of the owners of the soil. For several years it was compelled to defend itself by arms, and unaided, against the native tribes; and succeeding in sustaining itself, only at a melancholy sacrifice of comfort, and a lamentable loss of human lives. No nation has ever complained that it has acquired territory in Africa; but, on the contrary, for twenty two years it has been allowed, with the full knowledge of all nations, to enlarge its borders from time to time, as its safety or its necessities required. It has been regarded as a purely benevolent enterprise, and, with a view to its success, has been tacitly permitted to exercise all the powers of an independent community. It is believed that this license has never been abused, and that the colony has advanced no claims which ought not



to be allowed to an infant settlement just struggling into a healthy existence. Its object and motive entitle it to the respect of the stronger powers, and its very weakness gives it irresistible claims to their forbearance. Indeed, it may justly appeal to the kindness and support of all the principal nations of the world, since it has already afforded, and still continues to afford, the most important aid in carrying out a favorite measure of their policy.

It is not perceived that any nation can have just reason to complain that this settlement does not confine itself to the limits of its original territory. Its very existence requires that it should extend those limits. Heretofore, this has never been done by arms, so far as I am informed, but always by fair purchase from the natives. In like manner, their treaties with the native princes, whether of trade or otherwise, ought to be respected. It is quite certain that their influence in civilizing and christianizing Africa, in suppressing the slave-trade, and in ameliorating the condition of African slaves, will be worth very little, if they should be restrained at this time in any one of these particulars. Full justice, it is hoped, may be done to England, without denying to Liberia powers so necessary to the safety, the prosperity, and the utility of that settlement as a philanthropic establishment.

This Government does not, of course, undertake to settle and adjust differences which have arisen between British subjects and the authorities of Liberia. Those authorities are responsible for their own acts; and they certainly would not expect the support or countenance of this Government in any act of injustice towards individuals or nations. But, as they are themselves nearly powerless, they must rely, for the protection of their own rights, on the justice and sympathy of other powers.

Although no apprehension is entertained that the British Government meditates any wrong to this interesting settlement, yet the occasion is deemed a fit one for making known, beyond a simple answer to your inquiries, in what light it is regarded by the Government and people of the United States. It is due to her Majesty's Government that I should inform you that this Government regards it as occupying a peculiar position, and as possessing peculiar claims to the friendly consideration of all christian powers; that this Government will be, at all times, prepared to interpose its good offices to prevent any encroachment by the colony upon any just right of any nation; and that it would be very unwilling to see it despoiled of its territory rightfully acquired, or improperly restrained in the exercise of its necessary rights and powers as an independent settlement.

*Extract from Report of R. R. Gurley to the Secretary of State,  
February 15, 1850.*

The authorities and people of Liberia cherish a sincere attachment to the government and people of the United States. They are sensible that under the auspices of American benevolence they have attained to their present elevation, from which they are permitted to see before them a widely-expanding and glorious prospect of social happiness and political prosperity and renown. To the entire people of the republic, the recognition of their independence by the government of the United States is an object of earnest desire. The peculiarities of the condition of the free people of color, and others of the African race, in this country, they well know, and have no wish, by any relations which may be established between their government and ours, to cause inconvenience or embarrassment. While their wish and purpose is to maintain a just self-respect, as a free and independent republic, before the world, they will, I doubt not, be disposed to accommodate (as far as may be without exposure to dishonor or self-reproach) their arrangements to the sense and views of the American government. It has been suggested that they might conduct all their public affairs in this country with the United States through some one or more of its citizens, in case our government should feel inclined to confide to citizens of Liberia any business it might wish transacted in Africa with the authorities of that republic.

The scheme of African colonization originated not only in benevolence towards our colored population, but towards both races on this continent and towards two quarters of the globe. At its inception, our most illustrious statesmen — a Jefferson, Marshall, Monroe, and Madison — gave to it their sanction. It was seen to unite Christian philanthropy with political expediency — a just regard for our national welfare with the more solemn obligations of religious duty. It has derived strength from the homes of the good and pious in our southern States, and found eloquent advocates and defenders in their legislative halls. Many States have urged its claims upon the general government, and the voices of the churches of every name second their appeals.

But it is the success of the plan of African colonization, as seen in the independent republic of Liberia, that most conclusively commends it to national consideration. On that far-distant shore, for ages darkened by superstition and outraged by crime, a community of free colored persons from the United States, aided by American benevolence, have adopted a constitution of free government, and taken their high position among

the independent states of the world. England and France have acknowledged their right of self-government and their just claim to the respect and comity of nations. What higher motives can be imagined than those which have given existence to this republic? — what work more honorable or more sublime than that to which it is dedicated and destined? Though at present few in numbers and very limited in means, a vast field for action and influence opens before it; and in its constitution and laws, in the spirit of its people, the advantages of its position, and the motives and necessities of those who are hastening to build up their homes and their fortunes under the shadow of its wings, we see the elements of mighty power, of an unbounded growth and prosperity. It has been justly said, that “the great necessity of the world at this moment is a free, civilized, and powerful State within the tropics — a necessity felt through every period of the world’s history, and now about to be realized. The western coast of Africa is in every point of view the most effective position for such a State to occupy. The black race, of which there cannot be much less than 150,000,000 on earth, is pre-eminently the race needing such a development, and prepared for it; and the United States are exactly in a condition to found such a commonwealth with this race, and under circumstances the most glorious to ourselves, the most hopeful to the world, and the most beneficial to the blacks.” Around this republic of Liberia — the morning star of Africa’s redemption, revealing how great evils may be transmuted by the hand of the Almighty into an incalculable good; which looks with encouraging and cheering aspect upon the African race in every part of the earth; reconciles the gift of liberty with the highest interests of those who bestow and those who receive it; opens a quarter of the world for many years shut up in barbarism to the genial and renovating influence of letters, laws, commerce and Christianity — are gathered the sympathies of all virtuous and generous minds, allied with its safeguard, the all-encircling and never-slumbering power of an omnipotent Providence. The rapid increase of free persons of color in many of the States of this Union; the importance, for their benefit more than our own, of their organization into a community by themselves, in the land of their ancestors; the immense advantages such a community must secure to itself and extend to others, by developing the resources and turning into legitimate channels the commerce of Africa, by the civilization it must impart, and the moral and political truths it must exemplify and enforce among her ignorant, debased, and chaotic population — all command the

republic of Liberia to the regard of the general government of this Union. Engaged in a work of unsurpassed dignity and importance, the inhabitants of this small republic are accomplishing more good, as I must believe, than any equal number of human beings, in private stations, on the face of the globe. More than to the united endeavors of all Christian nations, with their treaties and armed squadrons against the slave trade, is humanity indebted for its suppression along many hundred miles of the African coast to the people of Liberia. But it should not be concealed, that to explore Africa; to establish commercial intercourse and relations with her interior tribes; to improve and fortify the harbors of the republic; to make needful experiments in agriculture and the arts in a region to which the people from this country have so recently been introduced, and to maintain a wise system of education for all classes of her population; so that its territory shall offer an attractive home to all the free descendants of Africa, demands pecuniary means to which the present revenues of Liberia are unequal. But since this republic, more than any other power, will develop the resources and increase the trade of western Africa, the United States, in aiding her endeavors, will open new markets for American productions, and essentially augment American commerce. Yet far higher and nobler motives than those of gain, will, I trust, incline our national authorities to encourage and assist the citizens of Liberia, a few adventurous, but determined children of Africa, gone out from our midst, that they may recover their long-lost inheritance, show their ability to build up civilized cities and states in regions where they have been unknown, and bring a vast continent, now lying in dim eclipse, within the circle and the influences of enlightened and Christian nations.

From the presence of our squadron on the African coast, benefits, doubtless, accrue both to Liberia and to our own commerce; but I may be permitted, in the conclusion of this report, to avow the opinion that a recognition by the government of the United States of the independence of the republic of Liberia, and an appropriation of fifty thousand dollars a year for ten years, to enable that republic to carry out the principles of its constitution, for the happiness of those who from this country are seeking a home upon its soil; for the suppression of the slave trade; and the civilization of Africa, would be in harmony with the character and sentiments of this nation, and give stability, progress, and triumph to liberty and Christianity on the African shore.

*Extract from Annual Message of President James Buchanan,  
December 6, 1858.*

On the 21st of August last Lieutenant J. N. Maffit, of the United States brig *Dolphin* captured the slaver *Echo* (formerly the *Putnam*, of New Orleans) near Kay Verde, on the coast of Cuba, with more than 300 African negroes on board. The prize, under the command of Lieutenant Bradford, of the United States Navy, arrived at Charleston on the 27th August, when the negroes 306 in number, were delivered into the custody of the United States marshal for the district of South Carolina. They were first placed in Castle Pinckney, and afterwards in Fort Sumter, for safe-keeping, and were detained there until the 19th September, when the survivors, 271 in number, were delivered on board the United States steamer *Niagara* to be transported to the coast of Africa under the charge of the agent of the United States, pursuant to the provisions of the act of the 3rd March 1819, "in addition to the acts prohibiting the slave trade." Under the second section of this act the President is "authorized to make such regulations and arrangements as he may deem expedient for the safe-keeping, support, and removal beyond the limits of the United States of all such negroes, mulattoes, or persons of color" captured by vessels of the United States as may be delivered to the marshal of the district into which they are brought, "and to appoint a proper person or persons residing upon the coast of Africa as agent or agents for receiving the negroes, mulattoes, or persons of color delivered from on board vessels seized in the prosecution of the slave trade by commanders of United States armed vessels."

A doubt immediately arose as to the true construction of this act. It is quite clear from its terms that the President was authorized to provide "for safe-keeping, support, and removal" of these negroes up till the time of their delivery to the agent on the coast of Africa, but no express provision was made for their protection and support after they had reached the place of their destination. Still, an agent was to be appointed to receive them in Africa, and it could not have been supposed that Congress intended he should desert them at the moment they were received and turn them loose to the inhospitable coast to perish for want of food or to become again the victims of the slave trade. Had this been the intention of Congress, the employment of an agent to receive them, who is required to reside on the coast, was unnecessary, and they might have been landed by our vessels anywhere in Africa and left exposed to the sufferings and the fate which would certainly await them.

Mr. Monroe, in his special message of December 17, 1819, at the first session after the act was passed, announced to Congress what in his opinion was its true construction. He believed it to be his duty under it to follow these unfortunates into Africa and make provision for them there until they should be able to provide for themselves. In communicating this interpretation of the act to Congress he stated that some doubt had been entertained as to its true intent and meaning, and he submitted the question to them so that they might, "should it be deemed advisable, amend the same before further proceedings are had under it." Nothing was done by Congress to explain the act, and Mr. Monroe proceeded to carry it into execution according to his own interpretation. This, then, became the practical construction. When the Africans from on board the *Echo* were delivered to the marshal at Charleston, it became my duty to consider what disposition ought to be made of them under the law. For many reasons it was expedient to remove them from that locality as speedily as possible. Although the conduct of the authorities and citizens of Charleston in giving countenance to the execution of the law was just what might have been expected from their high character, yet a prolonged continuance of 300 Africans in the immediate vicinity of that city could not have failed to become a source of inconvenience and anxiety to its inhabitants. Where to send them was the question. There was no portion of the coast of Africa to which they could be removed with any regard to humanity except to Liberia. Under these circumstances an agreement was entered into with the Colonization Society on the 7th of September last, a copy of which is herewith transmitted, under which the society engaged, for the consideration of \$45,000, to receive these Africans in Liberia from the agent of the United States and furnish them during the period of one year thereafter with comfortable shelter, clothing, provisions, and medical attendance, causing the children to receive schooling, and all, whether children or adults, to be instructed in the arts of civilized life suitable to their condition. This aggregate of \$45,000 was based upon an allowance of \$150 for each individual; and as there has been considerable mortality among them and may be more before they reach Africa, the society have agreed, in an equitable spirit, to make such a deduction from the amount as under the circumstances may appear just and reasonable. This can not be fixed until we shall ascertain the actual number which may become a charge to the society.

It was also distinctly agreed that under no circumstances shall this Government be called upon for any additional expenses.

The agents of the society manifested a laudable desire to conform to the wishes of the Government throughout the transaction. They assured me that after a careful calculation they would be required to expend the sum of \$150 on each individual in complying with the agreement, and they would have nothing left to remunerate them for their care, trouble, and responsibility. At all events, I could make no better arrangement, and there was no other alternative. During the period when the Government itself, through its own agents, undertook the task of providing for captured negroes in Africa the cost per head was very much greater.

There having been no outstanding appropriation applicable to this purpose, I could not advance any money on the agreement. I therefore recommend that an appropriation may be made of the amount necessary to carry it into effect.

Other captures of a similar character may, and probably will, be made by our naval forces, and I earnestly recommend that Congress may amend the second section of the act of March 3, 1819, so as to free its construction from the ambiguity which has so long existed and render the duty of the President plain in executing its provisions.

*The interest of the United States in the Republic of Liberia as evidenced by successive state papers.*

[Extracts.]

(Despatch of June 16, 1869, of Mr. Fish, Secretary of State, to Mr. Seys, American Minister to Liberia, from MSS. Records of State Department. *Cited Moore, International Law Digest*, Vol. V. p. 766.)

Your despatch No. 68 is received. In it you inform the Department that a dispute had grown up between Great Britain and the Republic of Liberia relative to the boundary of the republic, and that the government of Liberia had requested the interposition of the United States, and if necessary its protection.

You will inform the minister of foreign affairs, in reply to his request, that the President regards the progress of the Republic of Liberia, which has been so much identified with the United States, with deep solicitude, and would see with deep regret any collision between it and any foreign power. And if the good offices of the United States can do anything towards the just settlement of the existing controversy, you are at liberty to tender them. But to go beyond that, and to offer protection, would be a violation of all the traditions and policies of the United States since they first entered the family of nations.

Should you think it necessary to tender the good offices of this government, you will before doing so report to this Department what is the precise point at issue upon which our mediation is desired, in order that further instructions may be given before you communicate officially with the government of Liberia.

(From a despatch of July 17, 1879, of Mr. Hunter, Acting Secretary of State, to Mr. E. F. Noyes, American Minister at Paris. Foreign Relations 1879, p. 341.)

I transmit herewith for your information, and with a view to the ascertainment of the facts therein reported, a copy of a despatch recently received from the United States minister resident and consul-general at Monrovia, informing the Department that the French consul-general at that place had offered to the Liberian government the protection of that of France. A recent despatch from Commodore R. W. Shufeldt, who, with the *Ticonderoga* has lately visited the west coast of Africa on a special mission, gives the report in substantially the same dress.

When it is considered that this government founded and fostered the nucleus of native representative government on the African shores, and that Liberia, so created, affords a field of emigration and enterprise for the lately emancipated Africans of this country, who have not been slow to avail themselves of the opportunity, it is evident that this government must feel a peculiar interest in any apparent movement to divert the independent political life of Liberia for the aggrandizement of a great continental power which already has a foothold of actual trading possessions on the neighboring coast.

You are doubtless aware that the policy of the adjacent British settlement of Sierra Leone, has of late years been one of encroachment, if not of positive unfriendliness, toward Liberia, and it may prove that the policy of France in this matter may be merely antagonistic to British encroachment, and designed rather to aid that feeble republic to maintain its independent status, with development of trade with France and French possession, than to merge Liberia in the outlying system of that country. If so, it is desirable at least that the United States should be cognizant of the true tendency of the movement.

(Despatch of Feb. 2, 1880, of Mr. Evarts, Secretary of State, to Mr. J. H. Smyth, American Minister to Liberia, from MSS. Records of State Department. Cited Moore, *International Law Digest*, Vol. V. p. 767.)

Liberia is regarded by us with peculiar interest. Already the home of many of those who were once of our nation, she is the predestined



home of many who now enjoy citizenship in this republic. This going out to a greater or less extent of our citizens of African descent is but a question of time, and if Liberia be in proper condition to receive and care for such emigrants from the United States, her territory will be chosen by them in preference to that of any other country. A large and valuable commerce between Liberia and the United States may be developed if the two countries can be brought to see their true relations toward each other.

(Despatch of April 7, 1880, of Mr. Evarts, Secretary of State, to Mr. E. F. Noyes, American Minister to France, from MSS. Records of State Department. Cited Moore, *International Law Digest*, Vol. V. p. 767.)

The volume of Foreign Relations for 1879 devoted to the affairs of Liberia a much larger space than would seem to be warranted by the relative importance of that country. The reason for this is plain, and grows out of the peculiar relations which this country holds towards Liberia; and which are likely to become of increased importance. It is therefore quite suitable that the great powers should know that the United States publicly recognizes these relations, and is prepared to take every proper step to maintain them. In this view the publication of this correspondence seems not inopportune.

(The following statement, based entirely, as the notes indicate, on MSS. Records of the State Department, is taken from Moore, *International Law Digest*, Vol. V. pp. 772-773.)

In 1884, while negotiations between Great Britain and Liberia were in progress, for a settlement on the basis of the Mannah River, it was reported that Kent's Island, in that river, had been occupied by the French. In bringing this report confidentially to the attention of the French minister at Washington, Mr. Frelinghuysen, who was then Secretary of State, adverted to the fact that Liberia "was founded by negro settlers from the United States," and that, "although at no time a colony of this government, it began its career among the family of independent states as an offshoot of this country, and as such entitled to the sympathy and, when practicable, to the protection and encouragement of the United States." On the occasion of recent diplomatic disputes between Liberia and Great Britain, "this relationship of quasi-parentage" had, said Mr. Frelinghuysen, been recognized. It was not thought possible that France could seriously intend to assert a claim to territory so notoriously in dispute between those two powers, where no French right of possession

had before been recognized by either; but it was thought proper, said Mr. Frelinghuysen, to state, provisionally, that the United States would consider a French claim to territory in the Mannah River as threatening the integrity and tranquillity of Liberia, and also to intimate "the firm conviction and expectation" of the United States that, in view of its "intimate relationship" to Liberia, "any assertion of claim to any part of Liberia as defined by conventional limits, any enforcement of a settlement of alleged grievance, which might take place without the United States being allowed an opportunity to interpose their good offices to arrange the matter, could not but produce an unfavorable impression in the minds of the government and people of the United States." Mr. Frelinghuysen, Sec. of State, to Mr. Roustan, French min., Aug. 22, 1884, MS. Notes to France X. 15.

See, also, Mr. Frelinghuysen, Sec. of State, to Mr. Lowell, min., to England, No. 955, Aug. 22, 1884, MS. Inst. Gr. Br. XXVII. 289; Mr. Evarts, Sec. of State, to Mr. Noyes, min. to France, No. 227, April 21, 1880, MS. Inst. France, XX. 137.

(Despatch of Jan. 13, 1886, of Mr. Bayard, Secretary of State, to Mr. McLane, American Minister to France. Foreign Relations, 1886, p. 298.)

You are desired to acquaint yourself with the former inquiries made at the time of the French attempt to control Kent Island, in the Manna River, and with the grounds on which our friendly intervention on behalf of Liberia was based. We exercise no protectorate over Liberia, but the circumstance that the Republic originated through the colonization of American citizens, and was established under the fostering sanction of the Government, gives us the right, as the next friend of Liberia, to aid her in preventing any encroachment of foreign powers on her territorial sovereignty, and in settling any dispute that may arise. The southeasterly boundary at the river San Pedro has never been questioned, and has the powerful sanction of general admission for many years.

(Despatch of July 12, 1886, Mr. Bayard to Mr. McLane, American Minister to France. Foreign Relations, 1886, p. 304.)

As this Government is deeply interested in preserving the territorial integrity of Liberia, it has learned with much concern that French officers have recently been carrying on intrigues with tribes within the long established and universally recognized boundaries of the Liberian Republic, and treating with said tribes as independent.

(Annual Message of President Cleveland, Dec. 6, 1886. Foreign Relations, 1886, p. vii.)

The weakness of Liberia and the difficulty of maintaining effective sovereignty over its outlying district, have exposed that republic to encroachment. It cannot be forgotten that this distant community is an offshoot of our own system, owing its origin to the associated benevolence of American citizens, whose praiseworthy efforts to create a nucleus of civilization in the dark continent have commanded respect and sympathy everywhere, especially in this country. Although a formal protectorate over Liberia is contrary to our traditional policy, the moral right and duty of the United States to assist in all proper ways in the maintenance of its integrity is obvious, and has been consistently announced during nearly half a century. I recommend that, in the reorganization of our Navy, a small vessel, no longer found adequate to our needs, be presented to Liberia, to be employed by it in the protection of its coastwise revenues.

(Despatch of March 22, 1887, of Mr. Bayard, Secretary of State, to Mr. McLane, American Minister to France. Foreign Relations, 1887, p. 291.)

As mentioned in your note of February 3, 1886, to Mr. de Freycinet, Mr. Waddington in 1879, and Mr. Jules Ferry, in 1884, disclaimed that France had any design upon any territory which Liberia could claim.

It is not, therefore, apparent how, in view of these declarations, the French Government has been able to ratify in 1883 the treaty of 1868, nor to decree in 1885 the annexation of the villages which were recognized in 1883 as part of Liberia.

The relations of the United States Government with Liberia have not changed. It still feels justified in using its good offices in her behalf. These have been repeatedly exercised and its moral right to their exercise admitted by Great Britain in 1843 (see House Ex. Doc. No. 162, first session, Twenty-eighth Congress, Vol. 4, 1843, '44), and again in 1882, 1883, 1884, in the controversy concerning the northwestern boundary of Liberia, and by France in the answers of Mr. Waddington in 1879, and of M. Ferry in 1884, above referred to. We are unwilling to believe that it is now the intention of the French Government to act inconsistently with the spirit of these declarations.

You are requested to lay the facts proving the validity of the Liberian title to the territory in question before the French Government, accompanied by such observations as may seem, in your discretion, best cal-

culated to promote the end in view, namely, the recognition of Liberia's right. If it be impossible to obtain this, a definite declaration in regard to the line dividing French and Liberian territory may be made, which will fix a boundary such as France and all the powers can recognize and respect.

(Despatch of June 4, 1892, of Mr. Blaine, Secretary of State, to Mr. Coolidge, American Minister to France. Foreign Relations, 1892, 166-167.)

The Government of France can not be unaware of the lively interest which the United States have in the welfare of Liberia. The fact has been made known on repeated occasions. On January 13, 1886, when it was reported that a French claim of jurisdiction westward of San Pedro River had been set up, my predecessor in office instructed the United States minister to France as follows:

We exercise no protectorate over Liberia, but the circumstance that that Republic originated through the colonization of American citizens and was established under the fostering sanction of this Government gives us the right, as the next friend of Liberia, to aid her in preventing any encroachment of foreign powers on her territorial sovereignty and in settling any disputes that may arise.

On a very recent occasion, also, the keen interest of the United States in the fortunes of Liberia, and our jealous concern that full respect should be paid to the independent and sovereign place of the Republic in the family of nations was conspicuously shown. During the African slave-trade conference of Brussels, in the session of June 16, 1890, the representative of the United States made an explicit declaration of the relation of the Republic of Liberia to the United States and the desire of this Government that the general act should contain an express stipulation to the effect that the Liberian Republic would be invited, as a sovereign power, to adhere to the treaty. The object in view was attained by recording, in the protocol of the session of June 20, 1890, a positive declaration of the sense of the conference concerning the sovereign status of Liberia. Baron Lambermont, president of the conference, in setting forth the position announced by the United States with regard to the engagements of the general act, eloquently stated the circumstances which led, not only the United States, but all those interested in the cause of humanity in Africa, to attach great importance to the co-operation of the independent and free state of Liberia for the realization of the objects of the conference. "All the world knows," he said, "the history of the Republic of Liberia. Founded with an object of afford-

ing a home to certain freed American slaves desiring to return to the mother country, it was destined at the same time to fulfill a civilizing mission upon the Guinea coast. This creation has produced happy results. It began, it is true, under great difficulties, but this often happens in the early life of new states. This young Republic none the less deserves the sympathies of all those who are interested in the cause of humanity in Africa. It is an independent and free state. Moreover, the conference has every interest in associating it with its work, not only because of the mission Liberia is called upon to fulfill, but also because it is also in a position to lend indispensable assistance toward the execution of several of the clauses of the general act." The British delegate, Lord Vivian, welcomed this declaration of the President of the conference, adding that the place of Liberia had already been fixed among the independent states which were to be invited to adhere to the general act. These important declarations stand, therefore, as voicing the general sentiment of the conference and as recognizing with peculiar solemnity and frank spontaneity the position which the Republic of Liberia has won as a free, independent, sovereign, and equal member of the family of nations, and as an important factor in the development and civilization of Africa.

The position of Liberia in Africa is peculiar and almost isolated. It is one of the few independent sovereignties of that vast continent, and is the only one on the whole Atlantic seaboard. It has exercised sovereign attributes for half a century, competently contracting treaties with foreign states, and preserving its sphere of legitimate control peacefully among the interior tribes and along the coast, in virtue of formal treaties of cession dating back to its earliest history. At no time has Liberia trespassed on the domain of its neighbors or invaded their comparatively recent sphere of influence. Ever paying due respect to the rights of other sovereignties, its attitude has entitled it to unquestioning respect for its own vested rights, and to especial sympathy for its fruitful efforts to fulfill what Baron Lambertmont has well called "*Une mission civilisatrice pour la cote de Guinee.*"

Occupying the position, as Liberia does, and bound to the United States by special ties, which, strong in their origin, have been further strengthened by half a century of intimate relationship, it is apparent that this Government and people could not behold unmoved, much less acquiesce in, any proceeding on the part of the neighbors of Liberia which might assume to dispose of any territory justly claimed and long

admitted to belong to the Republic, without the concurrence and consent of Liberia as an independent and sovereign contractant.

It is proper that France, whose colonial establishments and spheres of protection adjoin the jurisdiction of Liberia to the eastward, should be afforded an opportunity of frankly disclaiming any intention to encroach upon the recognized territory of Liberia.

By the President's direction, you are instructed to bring these views to the attention of the minister of foreign affairs, and to inform him at the same time that the Government of the United States does not accept as valid or acquiesce in the protectorates announced by Mr. Desprez's note of November 3, 1891, or by Mr. Patenotre's later note of January 26, 1892, so far as the same may relate to territory pertaining to the Republic of Liberia westward of the San Pedro River, unless it shall appear that Liberia is herself a consenting party to such transactions.

The President is so firmly convinced that the just rights of independent Liberia will be duly respected by all, that he is indisposed to consider the possible contingency of such expansion of the territorial claims of other powers in Africa as might call for a more positive assertion of the duty of the United States.

(Despatch of July 12, 1892, of Mr. Foster, Secretary of State, to Mr. Lincoln, American Minister to Great Britain. Foreign Relations, 1892, 229.)

Sir Julian was told that the position of this Government as the next friend of a republic founded in Africa by American enterprise was well known, and had on former occasions been evidenced by our frank and friendly intervention, not only with France but with Great Britain as well, to avert any diminution of such just rights to African territory as Liberia possessed, and that due representation would be made against the apprehended encroachments of France westward of the long recognized boundary of the San Pedro River.

(Annual Message, Dec. 6, 1892, of President Harrison. Foreign Relations, 1892, xiv.)

In consequence of the action of the French Government in proclaiming a protectorate over certain tribal districts of the west coast of Africa, eastward of the San Pedro River, which has long been regarded as the southeastern boundary of Liberia, I have felt constrained to make protest against this encroachment upon the territory of a Republic which was founded by citizens of the United States and toward which this country has for many years held the intimate relation of a friendly counselor.

(Confidential promemoria, of March 13, 1897, of Mr. Sherman, Secretary of State. Senate Document 666, 60th Congress, 2d Session.)

Having reference to the confidential promemoria submitted by his excellency the British ambassador, on the 8th of March, last, and being desirous, in view of the circumstance of that Republic being an offshoot of the community of the United States, and to show toward it a kind spirit and all proper sympathy, the United States for its part declares the special interest taken by it in the independence of the Republic of Liberia and the concern it must feel should any prospect of its absorption by a foreign power develop in the future.

The Government of the United States is gratified to perceive from the British promemoria of March 8 last that Her Majesty's Government, entertains a similar special interest in the independence of the Liberian Republic.

(Report of Jan. 18, 1909, of Mr. Root, Secretary of State, to the President. Senate Document 666, 60th Congress, 2nd Session.)

It is unnecessary to argue that the duty of the United States toward the unfortunate victims of the slave trade was not completely performed by landing them upon the coast of Africa, and that our nation rests under the highest obligation to assist them, so far as they need assistance, toward the maintenance of free, orderly, and prosperous civil society.

(Special Message of Jan. 19, 1909, of President Roosevelt to Congress. Senate Document 666, 60th Congress, 1st Session.)

The relations of the United States to Liberia are such as to make it an imperative duty for us to do all in our power to help the little Republic which is struggling against such adverse conditions.

(Report of March 22, 1910, of Mr. Knox, Secretary of State, to the President. Senate Document 457, 61st Congress, 2nd Session.)

The report of the commission [to Liberia] and its recommendations have received most attentive study on the part of the Department of State and the conclusion is reached that action in the suggested lines is not only expedient but in the nature of a duty to a community which owes its existence to the United States and is the nation's ward.

(Special message of March 25, 1910, of President Taft. Senate Document 457, 61st Congress, 2nd Session.)

I cordially concur in the views of the Secretary of State and trust that the policy of the United States toward Liberia will be so shaped

as to fulfill our national duty to the Liberian people, who, by the efforts of this Government and through the material enterprise of American citizens, were established on the African coast and set on the pathway to sovereign statehood.

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ANNEXES TO THE ARTICLE "THE SANITARY COMMISSION — THE RED CROSS."

*Order of the Secretary of War Appointing the Sanitary Commission.*

WAR DEPARTMENT, }  
WASHINGTON, June 9, 1861. }

The Secretary of War has learned, with great satisfaction, that at the instance and in pursuance of the suggestion of the Medical Bureau, in a communication to this office, dated May 22, 1861, Henry W. Bellows, D. D., Prof. A. D. Bache, LL. D., Prof. Jeffries Wyman, M. D., Prof. Wolcott Gibbs, M. D., W. H. Van Buren, M. D., Samuel G. Howe, M. D., R. C. Wood, Surgeon U. S. A., G. W. Cullum, U. S. A., Alexander E. Shiras, U. S. A., have mostly consented, in connection with such others as they may choose to associate with them, to act as "A Commission of Inquiry and Advice in respect of the Sanitary Interests of the United States Forces," and without remuneration from the Government. The Secretary has submitted their patriotic proposal to the consideration of the President, who directs the acceptance of the services thus generously offered.

The Commission, in connection with a Surgeon of the U. S. A., to be designated by the Secretary, will direct its inquiries to the principles and practices connected with the inspection of recruits and enlisted men; the sanitary condition of the volunteers; to the means of preserving and restoring the health, and of securing the general comfort and efficiency of troops; to the proper provision of cooks, nurses, and hospitals; and to other subjects of like nature.

The Commission will frame such rules and regulations, in respect of the objects and modes of its inquiry, as may seem best adapted to the purpose of its constitution, which, when approved by the Secretary, will be established as general guides of its investigations and action.



A room with necessary conveniences will be provided in the City of Washington for the use of the Commission, and the members will meet when and at such places as may be convenient to them for consultation, and for the determination of such questions as may come properly before the Commission.

In the progress of its inquiries, the Commission will correspond freely with the Department and with the Medical Bureau, and will communicate to each, from time to time, such observations and results as it may deem expedient and important.

The Commission will exist until the Secretary of War shall otherwise direct, unless sooner dissolved by its own action.

SIMON CAMERON,  
*Secretary of War.*

I approve the above.

June 13, 1861.

A. LINCOLN.

*Plan of Organization for "The Commission of Inquiry and Advice in Respect of the Sanitary Interests of the United States Forces."*

The Commission naturally divides itself into two branches, one of Inquiry, the other of Advice, to be represented by two principal Committees, into which the Commission should divide.

I. Inquiry. — This branch of the Commission would again naturally subdivide itself into three stems, inquiring successively in respect of the condition and wants of the troops: —

1st. What must be the condition and want of troops gathered together in such masses, so suddenly, and with such inexperience?

2d. What is their condition? — a question to be settled only by direct and positive observation and testimony.

3d. What ought to be their condition, and how would Sanitary Science bring them up to the standard of the highest attainable security and efficiency?

SUB-COMMITTEES OF BRANCH OF INQUIRY.

A. Under the first Committee's care would come the suggestion of such immediate aid, and such obvious recommendations as an intelligent foresight and an ordinary acquaintance with received principles of sanitary science would enable the Board at once to urge upon the public authorities.

B. The second Sub-Committee would have in charge, directly or through agents, the actual exploration of recruiting posts, transports, camps, quarters, tents, forts, hospitals; and consultation with officers — Colonels, Captains, Surgeons, and Chaplains — at their posts, to collect from them needful testimony as to the condition and wants of the troops.

C. The Third Sub-Committee would investigate, theoretically and practically, all questions of dirt, cooking, and cooks; of clothing, foot, head, and body gear; of quarters, tents, booths, huts; of hospitals, field service, nurses and surgical dresses; of climate and its effects, malaria, and camp and hospital diseases and contagions; of ventilation, natural and artificial; of vaccination; antiscorbutics; disinfectants; of sinks, drains, camp sites, and cleanliness in general; of best methods of economizing and preparing rations, or changing or exchanging them. All these questions to be treated from the highest scientific ground, with the newest light of physiology, chemistry, and medicine, and the latest teachings of experience in the great continental wars.

Probably these Committees of Inquiry could convert to their use, without fee or reward, all our medical and scientific men now in the army, or elsewhere, especially by sending an efficient agent about among the regiments to establish active correspondence with surgeons, chaplains, and others, as well as by a public advertisement and call for such help and information.

II. Advice. — This branch of the Commission would subdivide itself into three stems, represented by three Sub-Committees. The general object of this branch would be to get the opinions and conclusions of the Commission approved by the Medical Bureau, ordered by the War Department, carried out by the officers and men, and encouraged, aided, and supported by the benevolence of the public at large, and by the State governments. It would subdivide itself naturally into three parts.

1. A Sub-Committee, in direct relation with the Government, the Medical Bureau, and the War Department; having for its object the communication of the counsels of the Commission, and the procuring of their approval and ordering by the U. S. Government.

2. A Sub-Committee in direct relation with the army officers, medical men, the camps and hospitals, whose duty it should be to look after the actual carrying out of the orders of the War Department and the Medical Bureau, and make sure, by inspection, urgency, and explanation, by influence, and all proper methods, of their actual accomplishment.

3. A Sub-Committee in direct relation with the State governments, and with the public associations of benevolence. First, to secure uniformity of plans, and then proportion and harmony of action; and finally, abundance of supplies in moneys and goods, for such extra purposes as the laws do not and can not provide for.

#### SUB-COMMITTEES OF BRANCH OF ADVICE.

D. The Sub-Committee in direct relation with the Government, would immediately urge the most obvious measures, favored by the Commission on the War Department, and secure their emphatic reiteration of orders now neglected. It would establish confidential relations with the Medical Bureau. A secretary, hereafter to be named, would be the head and hand of this Sub-Committee — always near the Government, and always urging the wishes and aims of the Commission upon its attention.

E. This Sub-Committee, in direct relation with the army officers, medical men, the camps, forts, and hospitals, would have it for its duty to explain and enforce upon inexperienced, careless, or ignorant officials, the regulations of a sanitary kind ordered by the Department of War and the Medical Bureau; of complaining to the Department of disobedience, sloth, or defect, and of seeing to the general carrying out of the objects of the Commission in their practical details.

F. This Sub-Committee, in direct relation with State authorities and benevolent associations, would have for its duties to look after three chief objects.

First: How far the difficulties in the sanitary condition and prospects of the troops are due to original defects in the laws of the States or the inspection usages, or in the manner in which officers, military or medical, have been appointed in the several States, with a view to the adoption of a general system, by which the State laws may all be assimilated to the United States regulations.

This could probably only be brought about by calling a convention of delegates from the several loyal States, to agree upon some uniform system; or, that failing, by agreeing upon a model State arrangement, and sending a suitable agent to the Governors and Legislatures, with a prayer for harmonious action and cooperation.

Second: To call in New York a convention of delegates from all the benevolent associations throughout the country, to agree upon a plan of common action in respect of supplies, depots, and methods of feeding the

extra demands of the Medical Bureau or Commissariat, without embarrassment to the usual machinery. This, too, might, if a convention were deemed impossible, be effected by sending about an agent of special adaptation. Thus the organizing, methodizing, and reducing to serviceableness the vague, disproportioned, and haphazard benevolence of the public, might be successfully accomplished.

Third: To look after the pecuniary ways and means necessary for accomplishing the various objects of the Commission, through solicitation of donations, either from State treasuries or private beneficence. The treasurer might be at the head of this Special Committee.

#### OFFICERS.

If these general suggestions be adopted, the officers of the Commission might properly be a President, Vice-President, Secretary, and Treasurer.

President. — His duties would be to call and preside over all meetings of the Commission, and give unity, method, and practical success to its counsels.

The Vice-President would perform the President's duties in his absence.

The Secretary should be a gentleman of special competency, charged with the chief executive duties of the Commission, in constant correspondence with its President; be resident at Washington, and admitted to confidential intimacy with the Medical Bureau and the War Department. Under him such agents as could safely be trusted with the duties of inspection and advice in camps, hospitals, fortresses, etc., should work, receiving instructions from, and reporting to him. He would be immediately in connection with the Committees A and B of the Branch of Inquiry, and of Committees D and E of the Branch of Advice.

The Treasurer would hold and disburse, as ordered by the Commission, the funds of the body. These funds would be derived from such sources as the Commission, when its objects were known, might find open or make available. Donations, voluntary and solicited; contributions from patriotic and benevolent associations, or State treasuries, would be the natural supply of the cost of sustaining a commission whose members would give their time, experience, and labor to a cause of the most obvious and pressing utility, and the most radical charity and wide humanity; who, while unwilling to depend on the General Government for even their incidental expenses, could not perform their duties without some moderate sum in hand to facilitate their movements.

The publication of the final report of the Commission could be arranged by subscription or private enterprise.

As the scheme of this Commission may appear impracticable from apprehended jealousies, either on the part of the Medical Bureau or the War Department, it may be proper to state, that the Medical Bureau itself asked for the appointment of the Commission, and that no ill-feeling exists or will exist between the Commission and the War Department, or the Government. The Commission grows out of no charges of negligence or incompetency in the War Department or the Medical Bureau. The sudden increase of volunteer forces has thrown unusual duties upon them. The Commission is chiefly concerned with the volunteers, and one of its highest ambitions is to bring the volunteers up to the regulars in respect of sanitary regulations and customs. To aid the Medical Bureau, without displacing it, or in any manner infringing upon its rights and duties, is the object of the Commission. 'The embarrassments anticipated from etiquette or official jealousy, have all been overcome in advance, by a frank and cordial understanding, met with large and generous feelings by the Medical Bureau and the Department of War.

HENRY W. BELLOWES, President.

PROF. A. D. BACHE, Vice-President.

ELISHA HARRIS, M. D., Corresp. Sect'y.

GEORGE W. CULLUM, U. S. Army.

ALEXANDER E. SHIRAS, U. S. Army.

ROBERT C. WOOD, M. D., U. S. Army.

WILLIAM H. VAN BUREN, M. D.

WOLCOTT GIBBS, M. D.

SAMUEL G. HOWE, M. D.

CORNELIUS R. AGNEW, M. D.

J. S. NEWBERRY, M. D.

GEORGE T. STRONG, Treasurer.

WASHINGTON, *June 13, 1861.*

WAR DEPARTMENT, Washington, *June 13, 1861.*

I hereby approve of the plan of organization proposed by the Sanitary Commission, as above given; and all persons in the employ of the United States Government are directed and enjoined to respect and further the inquiries and objects of this Commission, to the utmost of their ability.

SIMON CAMERON, *Secretary of War.*

*Project of Declarations for the Consideration of the International Conference of Geneva, 1863.*

*Prepared by the Genevese Society of Public Utility.*

[TRANSLATED]

ARTICLE 1. — There shall be, in each of the contracting countries, a National Committee, whose duty shall consist in remedying, by all the means in its power, the inadequacy of the official sanitary service of the armies in active service. This Committee shall organize itself in the manner which may appear to it the most useful and expedient.

ARTICLE 2. — Sections, unlimited in number, shall be founded, in order to second the National Committee. These shall be necessarily subordinate to the committee, to which alone shall belong the supreme direction.

ARTICLE 3. — Every National Committee shall place itself in communication with the Government of its own country, and shall ascertain that its efforts of service will be accepted in case of war.

ARTICLE 4. — In time of peace, the committees and their sections shall occupy themselves with improvements to be introduced in the military sanitary service, in the establishment of hospitals and ambulances, in the means of transports for the wounded, etc., and in pursuing the realization of these objects.

ARTICLE 5. — The Committees and Sections of the different countries shall reassemble in International Congresses, in order to communicate the result of their experience, and to concert together on the measures to be taken in the interests of the work.

ARTICLE 6. — In the month of January every year, the National Committees shall present a report of their labors during the past year, adding to it such communications as they may consider useful to be brought to the knowledge of the committees of other countries. The exchange of these communications and reports shall be managed through the medium of the Geneva Committee, to whom they shall be addressed.

ARTICLE 7. — In case of war, the Committee of the belligerent nations shall furnish the necessary aid to their respective armies, and, in particular, shall provide for the formation and organization of corps of volunteer nurses. They shall solicit the support of the committees belonging to neutral nations.

ARTICLE 8. — The volunteer nurses shall bind themselves to serve during a limited time, and not to meddle in any way in the operations of

war. They shall be employed, according to their wish, in field service or in that of hospitals. Females will necessarily be assigned to the latter.

ARTICLE 9. — The volunteer nurses shall wear a uniform in all countries, or an identical distinctive badge. Their person shall be sacred, and military chiefs shall afford them protection. At the commencement of a campaign, the soldiers of both armies shall be informed of the existence of these corps, and of their exclusively benevolent character.

ARTICLE 10. — The corps of nurses or volunteer helpers shall march in the rear of armies, to which they shall not cause any embarrassment, nor occasion any expense. They shall have their own means of carriage, victuals and medical stores of all kinds.

*International Conference of Geneva, October 29, 1863.*

*Resolutions and Recommendations Then Adopted.*

[TRANSLATED]

The international conference, anxious to come to the aid of the wounded in cases where the services of the military sanitation service should be insufficient, adopts the following resolutions:

ARTICLE 1. — There exists in each country a Committee whose object is to cooperate in time of war, if required, by all means in its power in the sanitary service of the armies.

This Committee is organized in the manner which appears to it the most useful and suitable.

ARTICLE 2. — Unlimited sub-committees may be formed, under its direction, to assist this committee.

ARTICLE 3. — Each Committee must be recognized by the government of its own country in order to be recognized and its offers of help accepted.

ARTICLE 4. — In time of peace the object of the Committee and sub-committees shall be the means of becoming truly efficient in time of war, especially in preparing materials of all kind, and in instructing voluntary nurses.

ARTICLE 5. — In time of war the Committees of belligerent nations furnish help in the measure of their resources, to their respective armies; and in particular organize and put on an active basis the voluntary nurses, and arrange sites for the establishment of hospitals, with the sanction of the military authority.

They may solicit the assistance of Committees belonging to neutral nations.

ARTICLE 6. — On appeal, or with the sanction of military authority, the Committees may send voluntary nurses to the field of battle. These are put under the direction of military chiefs.

ARTICLE 7. — Voluntary nurses on active duty in time of war must be provided with everything necessary for their maintenance by their respective Committees.

ARTICLE 8. — They wear, in all countries, as a distinctive badge, a white brassard with a Red Cross.

ARTICLE 9. — The Committees and Sub-Committees may assemble in International Congresses, to interchange their experiences and to concert on measures to be taken in the interest of the work.

ARTICLE 10. — All communications between committees of diverse nations, for the time, is conducted through the Committee of Geneva.

INDEPENDENT OF THE RESOLUTIONS HEREINBEFORE CITED, THE CONFERENCE RECOMMENDS THE FOLLOWING:

(a) That the governments shall accord their high protection to the Committees which shall be formed, and will assist as much as possible the accomplishment and success of their object.

(b) That neutral rights shall be proclaimed, in time of war, by belligerent nations, for the ambulances, hospitals, and that it shall also be granted in the most complete manner for the official sanitary personnel, for volunteer nurses, and for the inhabitants of the country who give succor to the wounded and for the wounded themselves.

(c) That a uniform and distinctive sign shall be adopted by all sanitary corps of all armies, and to all persons attached to the service of the army. That a uniform flag shall also be adopted, in all countries, for the hospitals and ambulances.

*Project of Declaration for the Consideration of the International Congress of Geneva, 1864.*

*Prepared by the Swiss Delegation.*

[TRANSLATED]

ARTICLE 1. — Military hospitals and ambulances shall be declared neuter, and as such, protected and respected by the belligerents, as long as there shall be found there any sick or wounded persons.



ARTICLE 2. — All the sanitary personnel, consisting of doctors, surgeons, pharmacists, nurses and stewards, and in general, all persons attached to the service of the hospitals and ambulances, shall be recognized as neutral.

ARTICLE 3. — The persons hereunder indicated may, even after occupation by the enemy, continue to fulfill their functions in hospitals or ambulances with which they are connected as long as it shall seem necessary, after which they will retire from the field without being in any way hampered or molested.

ARTICLE 4. — However, these persons may take with them only such property as belongs to them. All the materiel which shall have served for the installation of the ambulance or hospital shall be subject to the law of war.

ARTICLE 5. — The inhabitants of the country who shall have transported or cared for the wounded on the field of battle shall be equally respected and absolutely free.

ARTICLE 6. — Soldiers grievously wounded, either already in the hospitals and ambulances or carried from the field of battle, shall not only be cared for, independent of the nations to which they may belong, but shall not be made prisoners. They will be permitted to return to their own country on the condition that they shall not again bear arms during the campaign.

ARTICLE 7. — To the soldiers mentioned in the preceding article shall be delivered a "safe conduct" and if necessary transportation expenses when after recovery they will have to leave the spot where they have been treated.

ARTICLE 8. — Supplies necessary for the sick and the persons attached to the ambulance will be furnished by the occupying army, which will later be reimbursed for the amount in keeping with agreements previously entered into.

ARTICLE 9. — A distinctive brassard and uniform shall be recognized for the officers and sanitary employees of all armies.

An identical flag shall be adopted in all countries for ambulances and military hospitals.

This brassard and flag shall be those that were adopted at the International Conference of Geneva in October 1863. (Red Cross on a white field.)

ARTICLE 10. — Those who have not the right to wear the brassard and should do so for the purpose of spying, shall be punished with the extreme penalty of military law.

ARTICLE 11. — Stipulations analogous to the ones preceding, relative to naval warfare, may constitute the object of an ulterior convention among interested powers.

[See also the following documents which have already appeared in the Supplements to the Journal:]

*The Geneva Convention for the Amelioration of the Condition of the Sick and Wounded of Armies in the Field.* Concluded August 22, 1864. Vol. I (April 1907), p. 90.

*Additional Articles of 1868.* Vol. I (April 1907), p. 92.

*Articles XV and XXI of the Convention with Respect to the Laws and Customs of War on Land.* The Hague, July 29, 1899. Vol. I (April 1907), pp. 140 and 142.

*Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of August 22, 1864.* The Hague, July 29, 1899. Vol. I (April 1907), p. 159.

*Convention for the Amelioration of the Condition of the Sick and Wounded of Armies in the Field.* Geneva, July 6, 1906. Vol. I (April 1907), p. 201.

*Articles XV and XXI of the Convention with Respect to the Laws and Customs of War on Land.* The Hague, October 18, 1907. Vol. II, pp. 103 and 105.

*Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention.* The Hague, October 18, 1907. Vol. II, p. 153.

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TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN RESPECTING  
BOUNDARY WATERS BETWEEN THE UNITED STATES AND CANADA.<sup>1</sup>

*Signed January 11, 1909; Ratifications Exchanged May 5, 1910; Proclaimed May 13, 1910.*

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being equally desirous to prevent disputes regarding the use of boundary waters and to settle all

<sup>1</sup> U. S. Treaty Series, No. 548.

questions which are now pending between the United States and the Dominion of Canada involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along their common frontier, and to make provision for the adjustment and settlement of all such questions as may hereafter arise, have resolved to conclude a treaty in furtherance of these ends, and for that purpose have appointed as their respective plenipotentiaries:

The President of the United States of America, Elihu Root, Secretary of State of the United States; and

His Britannic Majesty, the Right Honorable James Bryce, O. M., his Ambassador Extraordinary and Plenipotentiary at Washington;

Who, after having communicated to one another their full powers, found in good and due form, have agreed upon the following articles:

#### PRELIMINARY ARTICLE.

For the purposes of this treaty boundary waters are defined as the waters from main shore to main shore of the lakes and rivers and connecting waterways, or the portions thereof, along which the international boundary between the United States and the Dominion of Canada passes, including all bays, arms, and inlets thereof, but not including tributary waters which in their natural channels would flow into such lakes, rivers, and waterways, or waters flowing from such lakes, rivers, and waterways, or the waters of rivers flowing across the boundary.

#### ARTICLE I.

The High Contracting Parties agree that the navigation of all navigable boundary waters shall forever continue free and open for the purposes of commerce to the inhabitants and to the ships, vessels, and boats of both countries equally, subject, however, to any laws and regulations of either country, within its own territory, not inconsistent with such privilege of free navigation and applying equally and without discrimination to the inhabitants, ships, vessels, and boats of both countries.

It is further agreed that so long as this treaty shall remain in force, this same right of navigation shall extend to the waters of Lake Michigan and to all canals connecting boundary waters, and now existing or which may hereafter be constructed on either side of the line. Either of the High Contracting Parties may adopt rules and regulations governing the use of such canals within its own territory and may charge tolls for the use thereof, but all such rules and regulations and all tolls charged

shall apply alike to the subjects or citizens of the High Contracting Parties and the ships, vessels, and boats of both of the High Contracting Parties, and they shall be placed on terms of equality in the use thereof.

#### ARTICLE II.

Each of the High Contracting Parties reserves to itself or to the several State Governments on the one side and the Dominion or Provincial Governments on the other as the case may be, subject to any treaty provisions now existing with respect thereto, the exclusive jurisdiction and control over the use and diversion, whether temporary or permanent, of all waters on its own side of the line which in their natural channels would flow across the boundary or into boundary waters; but it is agreed that any interference with or diversion from their natural channel of such waters on either side of the boundary, resulting in any injury on the other side of the boundary, shall give rise to the same rights and entitle the injured parties to the same legal remedies as if such injury took place in the country where such diversion or interference occurs; but this provision shall not apply to cases already existing or to cases expressly covered by special agreement between the parties hereto.

It is understood, however, that neither of the High Contracting Parties intends by the foregoing provision to surrender any right, which it may have, to object to any interference with or diversions of waters on the other side of the boundary the effect of which would be productive of material injury to the navigation interests on its own side of the boundary.

#### ARTICLE III.

It is agreed that, in addition to the uses, obstructions, and diversions heretofore permitted or hereafter provided for by special agreement between the Parties hereto, no further or other uses or obstructions or diversions, whether temporary or permanent, of boundary waters on either side of the line, affecting the natural level or flow of boundary waters on the other side of the line, shall be made except by authority of the United States or the Dominion of Canada within their respective jurisdictions and with the approval, as hereinafter provided, of a joint commission, to be known as the International Joint Commission.

The foregoing provisions are not intended to limit or interfere with the existing rights of the Government of the United States on the one side and the Government of the Dominion of Canada on the other, to

undertake and carry on governmental works in boundary waters for the deepening of channels, the construction of breakwaters, the improvement of harbors, and other governmental works for the benefit of commerce and navigation, provided that such works are wholly on its own side of the line and do not materially affect the level or flow of the boundary waters on the other, nor are such provisions intended to interfere with the ordinary use of such waters for domestic and sanitary purposes.

#### ARTICLE IV.

The High Contracting Parties agree that, except in cases provided for by special agreement between them, they will not permit the construction or maintenance on their respective sides of the boundary of any remedial or protective works or any dams or other obstructions in waters flowing from boundary waters or in waters at a lower level than the boundary in rivers flowing across the boundary, the effect of which is to raise the natural level of waters on the other side of the boundary unless the construction or maintenance thereof is approved by the afore-said International Joint Commission.

It is further agreed that the waters herein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other.

#### ARTICLE V.

The High Contracting Parties agree that it is expedient to limit the diversion of waters from the Niagara River so that the level of Lake Erie and the flow of the stream shall not be appreciably affected. It is the desire of both Parties to accomplish this object with the least possible injury to investments which have already been made in the construction of power plants on the United States side of the river under grants of authority from the State of New York, and on the Canadian side of the river under licenses authorized by the Dominion of Canada and the Province of Ontario.

So long as this treaty shall remain in force, no diversion of the waters of the Niagara River above the Falls from the natural course and stream thereof shall be permitted except for the purposes and to the extent hereinafter provided.

The United States may authorize and permit the diversion within the State of New York of the waters of said river above the Falls of Niagara,

for power purposes, not exceeding in the aggregate a daily diversion at the rate of twenty thousand cubic feet of water per second.

The United Kingdom, by the Dominion of Canada, or the Province of Ontario, may authorize and permit the diversion within the Province of Ontario of the waters of said river above the Falls of Niagara, for power purposes, not exceeding in the aggregate a daily diversion at the rate of thirty-six thousand cubic feet of water per second.

The prohibitions of this article shall not apply to the diversion of water for sanitary or domestic purposes, or for the service of canals for the purposes of navigation.

#### ARTICLE VI.

The High Contracting Parties agree that the St. Mary and Milk Rivers and their tributaries (in the State of Montana and the Provinces of Alberta and Saskatchewan) are to be treated as one stream for the purposes of irrigation and power, and the waters thereof shall be apportioned equally between the two countries, but in making such equal apportionment more than half may be taken from one river and less than half from the other by either country so as to afford a more beneficial use to each. It is further agreed that in the division of such waters during the irrigation season, between the 1st of April and 31st of October, inclusive, annually, the United States is entitled to a prior appropriation of 500 cubic feet per second of the waters of the Milk River, or so much of such amount as constitutes three-fourths of its natural flow, and that Canada is entitled to a prior appropriation of 500 cubic feet per second of the flow of St. Mary River, or so much of such amount as constitutes three-fourths of its natural flow.

The channel of the Milk River in Canada may be used at the convenience of the United States for the conveyance, while passing through Canadian territory, of waters diverted from the St. Mary River. The provisions of Article II of this treaty shall apply to any injury resulting to property in Canada from the conveyance of such waters through the Milk River.

The measurement and apportionment of the water to be used by each country shall from time to time be made jointly by the properly constituted reclamation officers of the United States and the properly constituted irrigation officers of His Majesty under the direction of the International Joint Commission.

## ARTICLE VII.

The High Contracting Parties agree to establish and maintain an International Joint Commission of the United States and Canada composed of six commissioners, three on the part of the United States appointed by the President thereof, and three on the part of the United Kingdom appointed by His Majesty on the recommendation of the Governor in Council of the Dominion of Canada.

## ARTICLE VIII.

This International Joint Commission shall have jurisdiction over and shall pass upon all cases involving the use or obstruction or diversion of the waters with respect to which under Articles III and IV of this treaty the approval of this Commission is required, and in passing upon such cases the Commission shall be governed by the following rules or principles which are adopted by the High Contracting Parties for this purpose:

The High Contracting Parties shall have, each on its own side of the boundary, equal and similar rights in the use of the waters hereinbefore defined as boundary waters.

The following order of precedence shall be observed among the various uses enumerated hereinafter for these waters, and no use shall be permitted which tends materially to conflict with or restrain any other use which is given preference over it in this order of precedence:

- (1) Uses for domestic and sanitary purposes;
- (2) Uses for navigation, including the service of canals for the purposes of navigation;
- (3) Uses for power and for irrigation purposes.

The foregoing provisions shall not apply to or disturb any existing uses of boundary waters on either side of the boundary.

The requirement for an equal division may in the discretion of the Commission be suspended in cases of temporary diversions along boundary waters at points where such equal division can not be made advantageously on account of local conditions, and where such diversion does not diminish elsewhere the amount available for use on the other side.

The Commission in its discretion may make its approval in any case conditional upon the construction of remedial or protective works to compensate so far as possible for the particular use or diversion proposed, and in such cases may require that suitable and adequate provision, ap-

proved by the Commission, be made for the protection and indemnity against injury of any interests on either side of the boundary.

In cases involving the elevation of the natural level of waters on either side of the line as a result of the construction or maintenance on the other side of remedial or protective works or dams or other obstructions in boundary waters or in waters flowing therefrom or in waters below the boundary in rivers flowing across the boundary, the Commission shall require, as a condition of its approval thereof, that suitable and adequate provision, approved by it, be made for the protection and indemnity of all interests on the other side of the line which may be injured thereby.

The majority of the Commissioners shall have power to render a decision. In case the Commission is evenly divided upon any question or matter presented to it for decision, separate reports shall be made by the Commissioners on each side to their own Government. The High Contracting Parties shall thereupon endeavor to agree upon an adjustment of the question or matter of difference, and if an agreement is reached between them, it shall be reduced to writing in the form of a protocol, and shall be communicated to the Commissioners, who shall take such further proceedings as may be necessary to carry out such agreement.

#### ARTICLE IX.

The High Contracting Parties further agree that any other questions or matters of difference arising between them involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along the common frontier between the United States and the Dominion of Canada, shall be referred from time to time to the International Joint Commission for examination and report, whenever either the Government of the United States or the Government of the Dominion of Canada shall request that such questions or matters of difference be so referred.

The International Joint Commission is authorized in each case so referred to examine into and report upon the facts and circumstances of the particular questions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.

Such reports of the Commission shall not be regarded as decisions of the questions or matters so submitted either on the facts or the law, and shall in no way have the character of an arbitral award.



The Commission shall make a joint report to both Governments in all cases in which all or a majority of the Commissioners agree, and in case of disagreement the minority may make a joint report to both Governments, or separate reports to their respective Governments.

In case the Commission is evenly divided upon any question or matter referred to it for report, separate reports shall be made by the Commissioners on each side to their own Government.

#### ARTICLE X.

Any questions or matters of difference arising between the High Contracting Parties involving the rights, obligations, or interests of the United States or of the Dominion of Canada either in relation to each other or to their respective inhabitants, may be referred for decision to the International Joint Commission by the consent of the two Parties, it being understood that on the part of the United States any such action will be by and with the advice and consent of the Senate, and on the part of His Majesty's Government with the consent of the Governor General in Council. In each case so referred, the said Commission is authorized to examine into and report upon the facts and circumstances of the particular questions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.

A majority of the said Commission shall have power to render a decision or finding upon any of the questions or matters so referred.

If the said Commission is equally divided or otherwise unable to render a decision or finding as to any questions or matters so referred, it shall be the duty of the Commissioners to make a joint report to both Governments, or separate reports to their respective Governments, showing the different conclusions arrived at with regard to the matters or questions so referred, which questions or matters shall thereupon be referred for decision by the High Contracting Parties to an umpire chosen in accordance with the procedure prescribed in the fourth, fifth, and sixth paragraphs of Article XLV of The Hague Convention for the pacific settlement of international disputes, dated October 18, 1907. Such umpire shall have power to render a final decision with respect to those matters and questions so referred on which the Commission failed to agree.

## ARTICLE XI.

A duplicate original of all decisions rendered and joint reports made by the Commission shall be transmitted to and filed with the Secretary of State of the United States and the Governor General of the Dominion of Canada, and to them shall be addressed all communications of the Commission.

## ARTICLE XII.

The International Joint Commission shall meet and organize at Washington promptly after the members thereof are appointed, and when organized the Commission may fix such times and places for its meetings as may be necessary, subject at all times to special call or direction by the two Governments. Each Commissioner, upon the first joint meeting of the Commission after his appointment, shall, before proceeding with the work of the Commission, make and subscribe a solemn declaration in writing that he will faithfully and impartially perform the duties imposed upon him under this treaty, and such declaration shall be entered on the records of the proceedings of the Commission.

The United States and Canadian sections of the Commission may each appoint a secretary, and these shall act as joint secretaries of the Commission at its joint sessions, and the Commission may employ engineers and clerical assistants from time to time as it may deem advisable. The salaries and personal expenses of the Commission and of the secretaries shall be paid by their respective Governments, and all reasonable and necessary joint expenses of the Commission, incurred by it, shall be paid in equal moieties by the High Contracting Parties.

The Commission shall have power to administer oaths to witnesses, and to take evidence on oath whenever deemed necessary in any proceeding, or inquiry, or matter within its jurisdiction under this treaty, and all parties interested therein shall be given convenient opportunity to be heard, and the High Contracting Parties agree to adopt such legislation as may be appropriate and necessary to give the Commission the powers above mentioned on each side of the boundary, and to provide for the issue of subpoenas and for compelling the attendance of witnesses in proceedings before the Commission. The Commission may adopt such rules of procedure as shall be in accordance with justice and equity, and may make such examination in person and through agents or employees as may be deemed advisable.

## ARTICLE XIII.

In all cases where special agreements between the High Contracting Parties hereto are referred to in the foregoing articles, such agreements are understood and intended to include not only direct agreements between the High Contracting Parties, but also any mutual arrangement between the United States and the Dominion of Canada expressed by concurrent or reciprocal legislation on the part of Congress and the Parliament of the Dominion.

## ARTICLE XIV.

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty. The ratifications shall be exchanged at Washington as soon as possible and the treaty shall take effect on the date of the exchange of its ratifications. It shall remain in force for five years, dating from the day of exchange of ratifications, and thereafter until terminated by twelve months' written notice given by either High Contracting Party to the other.

In faith whereof the respective plenipotentiaries have signed this treaty in duplicate and have hereunto affixed their seals.

Done at Washington the 11th day of January, in the year of our Lord one thousand nine hundred and nine.

(Signed)	ELIHU ROOT	[SEAL]
(Signed)	JAMES BRYCE	[SEAL]

## PROTOCOL OF EXCHANGE.

On proceeding to the exchange of the ratifications of the treaty signed at Washington on January 11, 1909, between the United States and Great Britain, relating to boundary waters and questions arising along the boundary between the United States and the Dominion of Canada, the undersigned plenipotentiaries, duly authorized thereto by their respective Governments, hereby declare that nothing in this treaty shall be construed as affecting, or changing, any existing territorial, or riparian rights in the water, or rights of the owners of lands under water, on either side of the international boundary at the rapids of the St. Mary's River at Sault Ste. Marie, in the use of the waters flowing over such lands, subject to the requirements of navigation in boundary waters and of navigation canals, and without prejudice to the existing right of the United States and Canada, each to use the waters of the St. Mary's

River, within its own territory; and further, that nothing in this treaty shall be construed to interfere with the drainage of wet, swamp, and overflowed lands into streams flowing into boundary waters, and also that this declaration shall be deemed to have equal force and effect as the treaty itself and to form an integral part thereto.

The exchange of ratifications then took place in the usual form.

In witness whereof, they have signed the present Protocol of Exchange and have affixed their seals thereto.

DONE at Washington this 5th day of May, one thousand nine hundred and ten.

PHILANDER C KNOX [SEAL]  
JAMES BRYCE [SEAL]

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SECRETARY KNOX'S NOTE TO THE NICARAGUAN CHARGÉ D'AFFAIRES,  
DECEMBER 1, 1909.

DEPARTMENT OF STATE,  
WASHINGTON, *December 1, 1909.*

Sir: Since the Washington conventions of 1907, it is notorious that President Zelaya has almost continuously kept Central America in tension or turmoil, that he has repeatedly and flagrantly violated the provisions of the conventions and by a baleful influence upon Honduras, whose neutrality the conventions were to assure, has sought to discredit those sacred international obligations to the great detriment of Costa Rica, El Salvador, and Guatemala, whose governments meanwhile appear to have been able patiently to strive for the loyal support of the engagements so solemnly undertaken at Washington, under the auspices of the United States and of Mexico.

It is equally a matter of common knowledge that under the régime of President Zelaya republican institutions have ceased in Nicaragua to exist except in name; that public opinion and the press have been throttled, and that prison has been the reward of any tendency to real patriotism. My consideration for you personally impels me to abstain from unnecessary discussion of the painful details of a régime which unfortunately has been a blot upon the history of Nicaragua and a discouragement to a group of republics whose aspirations need only the opportunity of free and honest government.

In view of the interests of the United States and of its relation to the Washington Conventions, appeal against this situation has long since been made to this Government by a majority of the Central American republics. There is now added the appeal, through the revolution, of a great body of the Nicaraguan people.

Two Americans who, this Government is now convinced were officers connected with the revolutionary forces, and therefore entitled to be dealt with according to the enlightened practice of civilized nations, have been killed by direct order of President Zelaya. Their execution is said to have been preceded by barbarous cruelties. The consulate at Managua is now officially reported to have been menaced. There is thus a sinister culmination of an administration also characterized by a cruelty to its own citizens which has, until the recent outrage, found vent in the case of this country in a succession of petty annoyances and indignities which many months ago made it impossible to ask an American minister longer to reside at Managua. From every point of view it has evidently become difficult for the United States further to delay more active response to the appeals so long made to its duty to its citizens, to its dignity, to Central America, and to civilization.

The Government of the United States is convinced that the revolution represents the ideas and the will of a majority of the Nicaraguan people more faithfully than does the government of President Zelaya, and that its peaceable control is well-nigh as extensive as that hitherto so sternly attempted by the government at Managua.

There is now added the fact, as officially reported from more than one quarter, that there are already indications of a rising in the western provinces in favor of a presidential candidate intimately associated with the old régime. In this it is easy to see new elements tending toward a condition of anarchy which leaves, at a given time, no definite responsible source to which the Government of the United States could look for reparation for the killing of Messrs. Cannon and Groce, or, indeed, for the protection which must be assured American citizens and American interests in Nicaragua.

In these circumstances the President no longer feels for the government of President Zelaya that respect and confidence which would make it appropriate hereafter to maintain with it regular diplomatic relations, implying the will and the ability to respect and assure what is due from one state to another.

The Government of Nicaragua, which you have hitherto represented,

is hereby notified, as will be also the leaders of the revolution, that the Government of the United States will hold strictly accountable for the protection of American life and property the factions *de facto* in control of the eastern and western portions of the Republic of Nicaragua.

As for the reparation found due, after careful consideration, for the killing of Messrs. Groce and Cannon, the Government of the United States would be loth to impose upon the innocent people of Nicaragua a too heavy burden of expiating the acts of a régime forced upon them, or to exact from a succeeding government, if it have quite different policies, the imposition of such a burden..

Into the question of ultimate reparation there must enter the question of the existence at Managua of a government capable of responding to demands. There must enter also the question how far it is possible to reach those actually responsible and those who perpetrated the tortures reported to have preceded the execution, if these be verified; and the question whether the government be one entirely dissociated from the present intolerable conditions and worthy to be trusted to make impossible a recurrence of such acts, in which case the President, as a friend of your country, as he is also of the other republics of Central America, might be disposed to have indemnity confined to what was reasonably due the relatives of the deceased and punitive only in so far as the punishment might fall where really due.

In pursuance of this policy, the Government of the United States will temporarily withhold its demand for reparation, in the meanwhile taking such steps as it deems wise and proper to protect American interests.

To insure the future protection of legitimate American interests, in consideration of the interest of the majority of the Central American republics, and in the hope of making more effective the friendly offices exerted under the Washington conventions, the Government of the United States reserves for further consideration at the proper time the question of stipulation, also that the constitutional government of Nicaragua obligate itself by convention, for the benefit of all the governments concerned, as a guarantee for its future loyal support of the Washington conventions and their peaceful and progressive aims.

From the foregoing it will be apparent to you that your office of chargé d'affaires is at an end. I have the honor to inclose your passports for use in case you desire to leave this country. I would add at the same time that, although your diplomatic quality is terminated, I shall be happy to receive you, as I shall be happy to receive the repre-

sentative of the revolution, each as the unofficial channel of communication between the Government of the United States and the *de facto* authorities to whom I look for the protection of American interests pending the establishment in Nicaragua of a government with which the United States can maintain diplomatic relations.

Accept, sir, the renewed assurances of my high consideration.

P. C. KNOX.

Felipe Rodriguez, Esquire, etc., etc., etc.

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NOTE OF THE SECRETARY OF STATE OF THE UNITED STATES INVITING THE  
REPUBLICS OF AMERICA TO A PAN-AMERICAN CONGRESS.

*Mr. Blaine to Mr. Osborn.*<sup>1</sup>

DEPARTMENT OF STATE,  
Washington, November 29, 1881.

Sir: The attitude of the United States with respect to the question of general peace on the American continent is well known through its persistent efforts for years past to avert the evils of warfare, or, these efforts failing, to bring positive conflicts to an end through pacific counsels or the advocacy of impartial arbitration. This attitude has been consistently maintained, and always with such fairness as to leave no room for imputing to our government any motive except the humane and disinterested one of saving the kindred states of the American continent from the burdens of war. The position of the United States as the leading power of the New World might well give to its government a claim to authoritative utterance for the purpose of quieting discord among its neighbors, with all of whom the most friendly relations exist. Nevertheless, the good offices of this government are not and have not at any time been tendered with a show of dictation or compulsion, but only as exhibiting the solicitous good-will of a common friend.

For some years past a growing disposition has been manifested by certain states of Central and South America to refer disputes affecting grave questions of international relationship and boundaries to arbitration rather than to the sword. It has been on several such occasions a source of profound satisfaction to the Government of the United States to see that this country is in a large measure looked to by all the American powers as their friend and mediator. The just and impartial counsel

<sup>1</sup> For Rel. of U. S., 1881, p. 13.

of the President in such cases has never been withheld, and his efforts have been rewarded by the prevention of sanguinary strife or angry contentions between peoples whom we regard as brethren.

The existence of this growing tendency convinces the President that the time is ripe for a proposal that shall enlist the good-will and active cooperation of all the states of the western hemisphere, both north and south, in the interest of humanity and for the common weal of nations. He conceives that none of the governments of America can be less alive than our own to the dangers and horrors of a state of war, and especially of war between kinsmen. He is sure that none of the chiefs of governments on the continent can be less sensitive than he is to the sacred duty of making every endeavor to do away with the chances of fratricidal strife. And he looks with hopeful confidence to such active assistance from them as will serve to show the broadness of our common humanity and the strength of the ties which bind us all together as a great and harmonious system of American commonwealths.

Impressed by these views, the President extends to all the independent countries of North and South America an earnest invitation to participate in a general congress to be held in the city of Washington on the 24th day of November, 1882, for the purpose of considering and discussing the methods of preventing war between the nations of America. He desires that the attention of the congress shall be strictly confined to this one great object; that its sole aim shall be to seek a way of permanently averting the horrors of cruel and bloody combat between countries, oftenest of one blood and speech, or the even worse calamity of internal commotion and civil strife; that it shall regard the burdensome and far-reaching consequences of such struggles, the legacies of exhausted finances, of oppressive debt, of onerous taxation, of ruined cities, of paralyzed industries, of devastated fields, of ruthless conscription, of the slaughter of men, of the grief of the widow and the orphan, of embittered resentments, that long survive those who provoked them and heavily afflict the innocent generations that come after.

The President is especially desirous to have it understood that, in putting forth this invitation, the United States does not assume the position of counseling, or attempting, through the voice of the congress, to counsel any determinate solution of existing questions which may now divide any of the countries of America. Such questions can not properly come before the congress. Its mission is higher. It is to provide for the interests of all in the future, not to settle the individual differences of the present. For this reason especially the President has indicated a day



for the assembling of the congress so far in the future as to leave good ground for hope that by the time named the present situation on the South Pacific coast will be happily terminated, and that those engaged in the contest may take peaceable part in the discussion and solution of the general question affecting in an equal degree the well-being of all.

It seems also desirable to disclaim in advance any purpose on the part of the United States to prejudge the issues to be presented to the congress. It is far from the intent of this government to appear before the congress as in any sense the protector of its neighbors or the predestined and necessary arbitrator of their disputes. The United States will enter into the deliberations of the congress on the same footing as the other powers represented, and with the loyal determination to approach any proposed solution, not merely in its own interest, or with a view to asserting its own power, but as a single member among many coordinate and coequal states. So far as the influence of this government may be potential, it will be exerted in the direction of conciliating whatever conflicting interests of blood, or government, or historical tradition may necessarily come together in response to a call embracing such vast and diverse elements.

You will present these views to the minister of foreign relations of the Argentine Republic, enlarging, if need be, in such terms as will readily occur to you, upon the great mission which it is within the power of the proposed congress to accomplish in the interest of humanity, and upon the firm purpose of the United States to maintain a position of the most absolute and impartial friendship towards all. You will thereupon, in the name of the President of the United States, tender to His Excellency the President of the Argentine Republic, a formal invitation to send two commissioners to the congress, provided with such powers and instructions on behalf of their government as will enable them to consider the questions brought before that body within the limit of submission contemplated by this invitation. The United States, as well as the other powers, will, in like manner, be represented by two commissioners, so that equality and impartiality will be amply secured in the proceedings of the congress.

In delivering this invitation through the minister of foreign affairs, you will read this dispatch to him and leave with him a copy, intimating that an answer is desired by this government as promptly as the just consideration of so important a proposition will permit.

I am, &c.,

JAMES G. BLAINE.

ARBITRATION CONVENTION BETWEEN THE UNITED STATES OF BRAZIL  
AND CHINA.

The President of the United States of Brazil and His Majesty the Emperor of China, desiring to conclude an arbitration convention in application of the principles enounced in Articles 15 to 19 and 21 of the Convention for the Pacific Settlement of International Disputes, signed at The Hague on the 29th July, 1899, and in Articles 37 to 40 and 42 of the Convention signed in the same city of The Hague on the 18th October, 1907, have named as their plenipotentiaries, that is to say:

The President of the United States of Brazil, Mr. M. C. Goncalves Pereira, Envoy Extraordinary and Minister Plenipotentiary to China and to Japan;

His Majesty, the Emperor of China, Mr. Lien Fang, Vice-President of the Board of Foreign Affairs;

Who, being duly authorized, have agreed upon the following articles:

ARTICLE I.

Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of Third Parties: it being further understood that, if one of the two Contracting Parties prefer it, all arbitration resulting from the present Convention shall be submitted to a Head of a State, to a friendly Government, or one or more arbitrators chosen outside the list of the Tribunal of the Hague.

ARTICLE II.

In each individual case the High Contracting Parties before appealing to the Permanent Court of Arbitration at The Hague, to other arbitrators or to a sole arbitrator, shall conclude a special agreement defining clearly the matter in dispute, the scope of the powers of the arbitrator or arbitrators and the periods to be fixed for the formation of the arbitral tribunal or the choice of an arbitrator or of arbitrators, as well as the rules of the procedure.

It is understood that with respect to the United States of Brazil, such

special agreement will be made by the President of the Republic with the consent of the National Congress, and with respect to the Chinese Empire, by the Emperor in such form and under such conditions as he shall deem necessary or convenient.

#### ARTICLE III.

The present Convention shall remain in force for the period of five years from the date of the exchange of ratifications. If it is not denounced six months before the expiration of this period it will continue to remain in force for a new period of five years and so successively.

#### ARTICLE IV.

The present Convention will be ratified after the legal formalities in the two countries have been observed, and the ratifications will be exchanged at Rio de Janeiro as soon as possible.

The present convention is drawn up in the Portuguese, Chinese and French languages. Four copies have been prepared. In case of disagreement, the French text alone shall be authoritative.

In testimony whereof we, the above-named plenipotentiaries, have signed the present convention and affixed our seals thereto.

Done at Peking the third of August, one thousand nine hundred and nine, corresponding to the eighteenth day of the sixth moon of the first year of Hsüan Tung.

(Signed)      M. C. GONCALVES PEREIRA.  
LIEN FANG.

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#### TREATY BETWEEN THE UNITED STATES OF BRAZIL AND THE ORIENTAL REPUBLIC OF URUGUAY, MODIFYING THEIR FRONTIERS ON LAKE MERIM AND THE JAGUARÃO RIVER AND ESTABLISHING GENERAL PRINCIPLES FOR COMMERCE AND NAVIGATION IN THOSE PLACES.

The Republic of the United States of Brazil and the Oriental Republic of Uruguay, with a view to render closer and closer their ancient friendship and to develop the relations of commerce and neighborliness between the two peoples, have resolved, upon the initiative of the Brazilian Government, to revise and modify the stipulations relative to the frontier

lines on Lake Merim and the Jaguarão River, and also, as proposed by the Oriental Government since December, 1851, those relative to the navigation on said lake and river, the stipulations mentioned being contained in the Boundary Treaty of October 12, 1851, in that of May 15, 1852, and in the Agreement of April 22, 1853, the first signed at the city of Rio de Janeiro and the other two at the city of Montevideo;

And for this purpose have appointed Plenipotentiaries, to-wit:

The President of the Republic of the United States of Brazil, Doctor José Maria da Silva Paranhos do Rio Branco, its Minister of State for Foreign Relations; and

The President of the Oriental Republic of Uruguay, Mr. Rufino T. Dominguez, its Envoy Extraordinary and Minister Plenipotentiary to Brazil;

Who, after exchanging their full powers, which were found in good and proper form, have agreed on the following articles:

#### ARTICLE I.

The Republic of the United States of Brazil cedes to the Oriental Republic of Uruguay:

1. From the mouth of the stream San Miguel up to the Jaguarão River, the part of Lake Merim included between its western shore and the new frontier which is to cross longitudinally the waters of the lake according to Article III of the present treaty;

2. On the river Jaguarão, the part of the river territory included between the right, or southern, bank and the dividing line hereinafter determined, in Article IV.

#### ARTICLE II.

The cession of the rights of sovereignty of Brazil, based in the beginning upon the possession she acquired and has maintained, since 1801, of the waters and navigation of Lake Merim and the Jaguarão River, and, afterward, established and confirmed solemnly in the pacts of 1851, 1852 and 1853, is made subject to the following conditions, which the Oriental Republic of Uruguay accepts:

1. Except in case of a subsequent agreement, Brazilian and Oriental vessels may navigate and engage in commerce in the waters of the Jaguarão River and Lake Merim as is hereinafter, in other articles, declared.

2. The Oriental Republic of Uruguay shall maintain and respect, in accordance with the principles of the Civil Law, property rights acquired by Brazilians or foreigners in the islands and islets which as an effect of the new determination of frontiers shall cease to belong to Brazil.

3. Neither of the High Contracting Parties shall establish forts or batteries on the banks of the lake, on those of the Jaguarão River, nor on any of the islands which belong to them in these waters.

#### ARTICLE III.

Beginning at the mouth of the stream San Miguel, where the Quarto Marco Grande is situated, placed there by the Mixed Demarcation Commission of 1853, the new frontier shall cross lengthwise Lake Merim as far up as the point Rabotieso, on the Uruguayan shore, along a broken line, marked by as many straight courses as may be necessary to maintain the equal distance between the principal points of the two shores.

From the latitude of the said point, Rabotieso, the dividing line shall incline to the northwest so far as may be necessary to pass between the islands called of the Taquary, leaving on the Brazilian side the most eastern island and those of the islets which are next to it; and thence it will continue until it reaches, in the neighborhood of the point Parobé, also situated on the Uruguayan shore, the deepest channel, continuing along it until opposite the point Muniz, on the Uruguayan shore, and the point of the Latins, or of Fanfa, on the Brazilian shore.

From this intermediate point, and passing between the point Muniz and the Brazilian island of Juncal, it shall extend to the mouth of the Jaguarão, wherein are situated, on the left, or Brazilian, bank, the Quinto Marco Grande of 1853, and on the right, or Uruguayan, bank, the intermediate Sexto Marco.

#### ARTICLE IV.

From the mouth of the Jaguarão the frontier shall ascend by the *thalweg* of that river up to the confluence of the stream Lagoões, on the right bank.

From this point upwards the dividing line shall follow the mid-distance between the banks of the Jaguarão, thereafter, the mid-distance between the banks of the Jaguarão Chico, or Guabijú, at whose confluence is the Sexto Marco Grande, of 1853, and, finally, it shall ascend by the bed of the stream of the Mina, marked by the Setimo and Oitavo Marcos (intermediate).

## ARTICLE V.

A Mixed Commission, appointed by the two Governments within the term of one year after the exchange of ratifications of the present treaty, shall prepare the plan of the part of Lake Merim which extends to the south of the point, Juncal, and also the plan of the Jaguarão River from its mouth to that of the stream Lagoões, making the necessary soundings, beside the topographical and geodetical operations indispensable for the determination of the new frontier and buoying it off in the lake according to the most convenient methods.

## ARTICLE VI.

The navigation of the Lake Merim and the Jaguarão River is free to the merchant ships of the two nations: and for the Uruguayans the transit, also, is free between the ocean and Lake Merim, through the Brazilian waters of the river San Gonçalo, the lagoon dos Patos and the bar of the Rio Grande de São Pedro, Brazilian and Uruguayan ships remaining subject, in the jurisdictional waters of each republic, to the fiscal and police regulations which they may or shall have established and the Uruguayan ships in transit being subject to the same taxes as the Brazilian. Merchant ships engaged in this navigation may only while in the other country communicate with the land, save in the case of *vis major* or special permission, in those places in which there are customs posts or fiscal or police stations.

## ARTICLE VII.

It is understood and declared that in the freedom of navigation for commerce between the two countries is not included the transportation of merchandise from port to port of the same country or coastwise trade, which shall continue in each of the two states subject to their respective laws.

## ARTICLE VIII.

Within the term of six months from the exchange of the ratifications of the present treaty, each one of the High Contracting Parties shall communicate to the other the port or ports qualified or proposed to be qualified for commerce on the Jaguarão River or Lake Merim; and when thereafter it is decided to qualify one or more others it shall give the other party six months notice of the fact, with a view to the adoption of suitable measures to prevent contraband.

## ARTICLE IX.

Uruguayan ships of war may voyage freely in Brazilian waters between the ocean and Lake Merim, and navigate, like the Brazilian, on the Jaguarão River or in the said lake, or may station themselves in their waters.

Except under extraordinary circumstances of which previous notice shall be given by one to the other, the High Contracting Parties obligate themselves not to maintain in Lake Merim and its affluents more than three small vessels of war, or armed as for war, the size, battery and crew of the same being a matter for special adjustment.

## ARTICLE X.

The two river states, with a view to facilitating navigation on Lake Merim, undertake to maintain there the buoys and signals which may be necessary in the part pertaining to each.

## ARTICLE XI.

The High Contracting Parties will conclude in the shortest term possible a Treaty of Commerce and Navigation based on the most liberal principles, having in view the protection in the most efficacious way licit commerce over the fluvial and terrestrial frontiers.

The fiscal and police regulations, hereinabove mentioned, are to be as favorable as possible to navigation and commerce and so far as practicable to preserve uniformity in the two countries.

## ARTICLE XII.

The present treaty, through the necessary authorization of the legislative power of both countries, shall be ratified by the two Governments and the qualifications shall be exchanged at the city of Rio de Janeiro or the city of Montevideo as soon as possible.

In faith whereof, we, the above named Plenipotentiaries, sign the present treaty in duplicate, each in the Portuguese and Spanish languages, and hereunto affix our seals.

Done at the city of Rio de Janeiro on the 30th day of October one thousand nine hundred and nine.

(L. S.) RIO BRANCO.

(L. S.) RUFINO T. DOMINGUEZ.

PROCLAMATION OF THE PRESIDENT OF THE UNITED STATES OF AMERICA  
EXTENDING TO CERTAIN ALIENS THE BENEFITS OF THE COPYRIGHT ACT  
OF MARCH 4, 1909.

[No. 1021.]

WHEREAS it is provided by the Act of Congress of March 4, 1909, entitled "An Act to amend and consolidate the Acts respecting Copyright," that the benefits of said Act, excepting the benefits under Section 1 (e) thereof, as to which special conditions are imposed, shall extend to the work of an author or proprietor who is a citizen or subject of a foreign state or nation, only upon certain conditions set forth in Section 8 of said Act, to wit:

(a) When an alien author or proprietor shall be domiciled within the United States at the time of the first publication of his work; or

(b) When the foreign state or nation of which such author or proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection substantially equal to the protection secured to such foreign author under this Act or by treaty; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto:

AND, WHEREAS, it is also provided by said section that "The existence of the reciprocal conditions aforesaid shall be determined by the President of the United States, by proclamation made from time to time as the purposes of this Act may require":

AND, WHEREAS satisfactory evidence has been received that in Austria, Belgium, Chile, Costa Rica, Cuba, Denmark, France, Germany, Great Britain and her possessions, Italy, Mexico, the Netherlands and possessions, Norway, Portugal, Spain, and Switzerland the law permits and since July 1, 1909, has permitted to citizens of the United States the benefit of copyright on substantially the same basis as to citizens of those countries:

NOW, THEREFORE, I, WILLIAM HOWARD TAFT, President of the United States of America, do declare and proclaim that one of the alternative conditions specified in Section 8 of the Act of March 4, 1909, is now fulfilled, and since July 1, 1909, has continuously been fulfilled, in respect to the citizens or subjects of Austria, Belgium, Chile, Costa Rica,



Cuba, Denmark, France, Germany, Great Britain and her possessions, Italy, Mexico, the Netherlands and possessions, Norway, Portugal, Spain, and Switzerland, and that the citizens or subjects of the aforementioned countries are and since July 1, 1909, have been entitled to all of the benefits of the said Act other than the benefits under Section 1 (e) thereof, as to which the inquiry is still pending.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this ninth day of April in the year of our Lord one thousand nine hundred and ten, and of [SEAL] the Independence of the United States of America the one hundred and thirty-fourth.

WM H TAFT

By the President:

P C KNOX

*Secretary of State.*

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NATURALIZATION CONVENTION BETWEEN THE UNITED STATES AND  
BRAZIL.<sup>1</sup>

*Signed at Rio de Janeiro, April 27, 1908; Ratifications Exchanged  
February 28, 1910; Proclaimed April 2, 1910.*

The United States of America and the United States of Brazil, led by the wish to regulate the status of their naturalized citizens who again take up their residence in the country of their origin, have resolved to make a Convention on this subject, and to this end have appointed for their Plenipotentiaries, viz:

The President of the United States of America, the Ambassador Extraordinary and Plenipotentiary of the United States of America near the Government of the United States of Barzil, Irving B. Dudley; and

The President of the United States of Brazil, the Minister of State for Foreign Relations, José Maria da Silva Paranhos do Rio-Branco;

Who, thereunto duly authorized, have agreed upon the following articles:

ARTICLE I.

Citizens of the United States of America who may or shall have been naturalized in the United States of Brazil upon their own application

<sup>1</sup> U. S. Treaty Series, No. 547.

or by their own consent, will be considered by the United States of America as citizens of the United States of Brazil. Reciprocally, Brazilians who may or shall have been naturalized in the United States of America upon their own application or by their own consent will be considered by the United States of Brazil as citizens of the United States of America.

#### ARTICLE II.

If a citizen of the United States of America, naturalized in the United States of Brazil, renews his residence in the United States of America, with the intention not to return to the United States of Brazil, he shall be held to have renounced his naturalization in the United States of Brazil; and, reciprocally, if a citizen of the United States of Brazil, naturalized in the United States of America, renews his residence in the United States of Brazil, with the intention not to return to the United States of America, he shall be held to have renounced his naturalization in the United States of America.

The intention not to return may be held to exist when the person naturalized in one of the two countries resides more than two years in the other; but this presumption may be destroyed by evidence to the contrary.

#### ARTICLE III.

It is agreed that the word "citizen," as used in this Convention, means any person whose nationality is that of the United States of America or the United States of Brazil.

#### ARTICLE IV.

A naturalized citizen of the one party, on returning to the territory of the other, remains liable to trial and punishment for an action punishable by the laws of his original country, and committed before his emigration, but not for the emigration itself, saving always the limitation established by the laws of his original country, and any other remission of liability to punishment.

#### ARTICLE V.

The status of a naturalized citizen may be acquired only through the means established by the laws of each of the countries and never by one's declaration of intention to become a citizen of one or the other country.

## ARTICLE VI.

The present Convention shall be submitted for the approval and ratification of the competent authorities of the contracting parties and the ratifications shall be exchanged at the city of Rio de Janeiro within two years from the date of this Convention.

It shall enter into full force and effect immediately after the exchange of ratifications, and in case either of the two parties notify the other of its intention to terminate the same, it shall continue in force for one year counting from the date of said notification.

In witness whereof the Plenipotentiaries above mentioned have signed the present Convention, affixing thereto their seals.

Done in duplicate, each in the two languages, English and Portuguese, at the city of Rio de Janeiro, this twenty-seventh day of April nineteen hundred and eight.

[SEAL] IRVING B DUDLEY  
[SEAL] RIO-BRANCO.

## LIST OF MEMBERS OF THE PERMANENT COURT OF ARBITRATION.

(Translated and reprinted from the Report of the Administrative Council of the Permanent Court of Arbitration, dated April 6, 1910.)

Appointed by		Date of Appointment
Argentine:	His Excellency Mr. Roque Saenz Peña, Doctor of Law, ex-Minister of Foreign Affairs and Religion, Envoy Extraordinary and Minister Plenipotentiary at Rome and at Berne;	July 6, 1907.
	His Excellency Mr. Estanislao S. Zevallos, Doctor of Law, Professor of International Private Law at the University of Buenos Aires, ex-Minister of Foreign Affairs and Religion;	July 6, 1907.
	Mr. Luis Maria Drago, Doctor of Law, ex-Minister of Foreign Affairs and Religion, Deputy;	July 6, 1907.
	Mr. Carlos Rodriguez Larreta, Doctor of Law, ex-Minister of Foreign Affairs and Religion, Professor of Constitutional Law at the University of Buenos Aires.	July 6, 1907.

Appointed by		Date of Appointment
Austria- Hungary:	His Excellency Count Albert Apponyi, Privy Councilor, ex-Minister of Public Worship and Instruction of Hungary, Member and ex-President of the Chamber of Deputies of the Hungarian Parliament, etc.;	December 4, 1906.
	Mr. Henri Lammasch, Doctor of Law, Aulic Councilor, Professor of International Law at the University of Vienna, Member of the House of Lords of the Austrian Parliament;	December 4, 1906.
	His Excellency Mr. Albert de Berzeviczy, Privy Councilor, ex-Minister of Public Worship and Instruction of Hungary, President of the Hungarian Academy of Sciences and Letters, etc.;	February 26, 1909.
	His Excellency Baron Ernest de Plener, Privy Councilor, Doctor of Law, President of the Supreme Court of the Commune of Comptes, Member of the House of Lords of the Austrian Parliament.	February 26, 1909.
Belgium:	His Excellency Mr. Beernaert, Minister of State, Member of the Chamber of Representatives, etc.;	October 6, 1906.
	His Excellency Baron Descamps, Minister of Sciences and Arts, Senator, Secretary-General of the Institute of International Law;	October 6, 1906.
	Mr. Ernest Nijs, Counselor of the Court of Appeals of Brussels;	September 5, 1905.
	Mr. Arendt, Director-General of the Ministry of Foreign Affairs.	January 23, 1907.
Bolivia:	Mr. Severo Fernandez Alonso, Doctor of Law, ex-President of the Republic, ex-Professor of International Law at the University of Chuquisaca;	September 13, 1907.
	Mr. Claudio Pinilla, Doctor of Law, ex-Minister of Foreign Affairs;	September 13, 1907.

Appointed by		Date of Appointment
	His Excellency Mr. Ismael Montes, Doctor of Law, ex-President of the Republic, Envoy Extraordinary and Minister Plenipotentiary at London and at Paris;	February 14, 1910.
	His Excellency Mr. Ignacio Calderón, ex-Minister of Finance, Envoy Extraordinary and Minister Plenipotentiary at Washington.	February 14, 1910.
Brazil:	His Excellency Mr. Lafayette Rodrigues Pereira, Doctor of Law, ex-Senator, ex-Councilor of State, ex-President of the late Imperial Council of Ministers;	September 13, 1907.
	His Excellency Mr. Ruy Barbosa, Doctor of Law, Senator, ex-Ambassador, ex-Vice-Chief of the Provisional Government of the Republic, Member of the Brazilian Academy.	September 13, 1907.
	Mr. Clovis Bevilacqua, Doctor of Law, Legal Advisor to the Ministry for Foreign Affairs, Professor of the Faculty of Law of Recife, Member of the Brazilian Academy.	September 13, 1907.
Bulgaria:	Mr. Stoyan Daneff, Doctor of Law, Attorney, ex-President of the Council of Ministers, ex-Minister of Foreign Affairs and Worship, ex-Professor at the University of Sofia, Deputy;	July 10/23, 1907.
	His Excellency Mr. Dimitri Stancioff, Doctor of Law, ex-Minister of Foreign Affairs, Envoy Extraordinary and Minister Plenipotentiary at Paris and at Brussels.	July 10/23, 1907.
Chile:	Mr. Carlos Concha, Doctor of Law, ex-Minister of War and Marine, ex-President of the Chamber of Deputies, ex-Envoy Extraordinary and Minister Plenipotentiary at Buenos-Aires;	October 17, 1907.

Appointed by		Date of Appointment
	<p>Mr. Miguel Cruchaga, Doctor of Law, ex-President of the Council, Envoy Extraordinary and Minister Plenipotentiary at Buenos-Aires;</p> <p>Mr. Alejandro Alvarez, Doctor of Law, "Elève Diplômé" of the School of Moral and Political Sciences at Paris, Technical Adviser to the Ministry for Foreign Affairs;</p> <p>Mr. José Antonio Gandarillas, Doctor of Law, Member of the Faculty of Law and Political Sciences of the University of Chile, ex-Minister of State for the Departments of Finance, Justice, Public Worship and Instruction, War and Marine, ex-President of the Senate and ex-Councilor of State.</p>	<p>October 17, 1907.</p> <p>October 17, 1907.</p> <p>January 17, 1910.</p>
China:	His Excellency Mr. Wu Ting-Fang, ex-Envoy Extraordinary and Minister Plenipotentiary at Washington, ex-Imperial Commissioner for the Revision of the Laws.	April 4, 1905.
Colombia:	<p>General Jorge Holguin, ex-Chargé of the Executive Power, ex-Minister of Foreign Affairs;</p> <p>General Marceliano Vargas, ex-Minister Plenipotentiary at Paris, ex-Minister of the Interior;</p> <p>Mr. J. Marcelino Hurtado, Envoy Extraordinary and Minister Plenipotentiary at Rome;</p> <p>Mr. Felipe Diaz Erazo, Counselor of the Legation at Paris.</p>	<p>March 26, 1908.</p> <p>March 26, 1908.</p> <p>March 26, 1908.</p> <p>March 26, 1908.</p>
Cuba:	<p>Mr. Antonio Sanchez de Bustamante, Doctor of Law, Senator, Professor of International Public and Private Law at the University of Havana;</p> <p>His Excellency Mr. Gonzalo de Quesada, Attorney, ex-Envoy Extraordinary and Minister Plenipotentiary</p>	<p>January 11, 1908.</p> <p>January 11, 1908.</p>

Appointed by		Date of Appointment
	at Washington, Envoy Extraordinary and Minister Plenipotentiary at Berlin; Mr. Manuel Sanguily, Attorney, ex-Senator, Minister of Foreign Affairs;	January 11, 1908.
	Mr. Juan B. Hernandez Barreiro, Doctor of Law, President of the Supreme Tribunal of the Republic.	January 11, 1908.
Denmark:	Professor Henning Matzen, Doctor of Law, Professor of the University of Copenhagen, Counselor Extraordinary of the Supreme Court, Member of the Landsting.	December 13, 1906.
Dominican Republic:	Mr. Apolinar Tejera, Rector of the Professional Institute of Santo Domingo; Mr. Francisco Henriquez I. Carvajal, ex-Minister of Foreign Affairs; Mr. Rafael J. Castillo, Doctor of Law, President of the Supreme Court of Justice; Mr. Eliseo Grullon, ex-Minister of Posts and Telegraphs.	September 16, 1907. September 16, 1907. September 16, 1907. September 16, 1907.
Ecuador:	Mr. Luis Felipe Carbo, Deputy, Senator, ex-Minister of the Interior, ex-Envoy Extraordinary and Minister Plenipotentiary at Mexico, at Bogotá and at Washington, Minister of Foreign Affairs; Mr. Honorato Vasquez, Doctor of Law, Deputy, Senator, Under-Secretary of State at the Department for Public Instruction and Foreign Affairs, Rector of the University of Azuay, Envoy Extraordinary and Minister Plenipotentiary at Lima and at Madrid; Mr. Victor Manuel Rendón, Envoy Extraordinary and Minister Plenipotentiary at Paris and at Madrid;	November 19, 1907. November 19, 1907. November 19, 1907.

Appointed by		Date of Appointment
	General Julio Andrade, Deputy, Under-Secretary of State at the Department of War and Marine, Minister of Public Instruction, Envoy Extraordinary and Minister Plenipotentiary at Bogotá.	November 19, 1907.
France:	<p>Mr. Léon Bourgeois, Doctor of Law, ex-Minister of Foreign Affairs, ex-President of the Chamber of Deputies, ex-President of the Council, Senator;</p> <p>Mr. Decrais, ex-Ambassador, ex-Minister of the Colonies, Senator;</p> <p>Baron D'Estournelles de Constant, Minister Plenipotentiary, Senator;</p> <p>Mr. Louis Renault, Minister Plenipotentiary, Professor in the Faculty of Law of Paris, Law Officer of the Department for Foreign Affairs.</p>	<p>November 16, 1906.</p> <p>November 16, 1906.</p> <p>November 16, 1906.</p> <p>November 16, 1906.</p>
Germany:	<p>Mr. Kriege, Doctor of Law, Privy Councilor of Legation, Legal Advisor and Counselor of the Department of Foreign Affairs;</p> <p>Mr. de Martitz, Doctor of Law, Privy Councilor, Professor of Law at the University of Berlin;</p> <p>Mr. de Bar, Doctor of Law, Judicial Privy Councilor, Professor of Law at the University of Göttingen.</p>	<p>November 30, 1906.</p> <p>November 30, 1906.</p> <p>November 30, 1906.</p>
Great Britain:	<p>The Right Honorable Sir Edward Fry, Doctor of Law, formerly of the Court of Appeals, Member of the Privy Council;</p> <p>The Right Honorable Sir E. M. Satow, ex-Envoy Extraordinary and Minister Plenipotentiary at Pekin, Member of the Privy Council;</p> <p>The Right Honorable Sir Charles Fitzpatrick, Chief Justice of the Supreme Court of the Dominion of Canada.</p>	<p>November 30, 1906.</p> <p>November 30, 1906.</p> <p>September 30, 1907.</p>



Appointed by		Date of Appointment
	The Right Honorable Count de Desart, ex-Solicitor General.	January 15, 1910.
Greece:	Mr. Denis Stephanos, Deputy, ex-Min- ister for Foreign Affairs;	March 5/18, 1908.
	Mr. George Streit, Professor of Inter- national Law at the University of Athens;	March 5/18, 1908.
	Mr. Michel Kebedgy, Counselor of the Mixed Court of Appeal at Alexan- dria;	March 5/18, 1908.
	Mr. Typaldo Bassia, Deputy, Professor of Political Economy at the Uni- versity of Athens.	January 9/22, 1908.
Guatemala:	Mr. Francisco Anguiano, Doctor of Law, Vice-President of the National Assembly, President of the Council of State, ex-Minister of Foreign Af- fairs, of the Interior and of Justice;	February 8, 1910.
	Mr. Antonio Batres Jauregui, Coun- cilor of State, ex-President of the Judiciary and of the Supreme Court of Justice, ex-Minister of Foreign Affairs and of Public Instruction, ex- Envoy Extraordinary and Minister Plenipotentiary at Washington, Rio de Janeiro, etc.;	February 8, 1910.
	Mr. Carlos Salazar, Dean of the Fac- ulty of Law, Guatemalan representa- tive on the Central American Court of Justice, ex-Member of the Court of Appeal, etc.;	February 8, 1910.
	Mr. Francisco de Arce, Doctor of Law, Chargé d'Affaires at The Hague, Brussels, Paris, London and Rome.	February 8, 1910.
Haiti:	Mr. Jacques Nicolas Leger, Attorney, President of the Society of Legisla- tion of Port-au-Prince, ex-President of the Order of Advocates of Port- au-Prince, Envoy Extraordinary and Minister Plenipotentiary at Wash- ington;	July 21, 1908.

Appointed by		Date of Appointment
	Mr. Solon Menos, Attorney, ex-President of the Society of Legislation of Port-au-Prince, ex-President of the Order of Advocates of Port-au-Prince, ex-Secretary of State for Finance, Commerce, Justice and Foreign Relations;	July 21, 1908.
	Mr. F. D. Legitime, Publicist, ex-President of the Republic;	July 21, 1908.
	Mr. Tertullien Guilbaud, Attorney, ex-Private Secretary to the President of Haiti, ex-Member of the Constitutional Assembly, ex-Senator of the Republic.	July 21, 1908.
Italy:	His Excellency Commander Jean Baptiste Pagano Guarnaschelli, Doctor of Law, Senator of the Kingdom, First President of the Court of Cassation at Rome;	December 5, 1906.
	Mr. Auguste Pierantoni, Senator, Professor of International Law at the Royal University at Rome;	September 12, 1907.
	Mr. Guido Fusinato, Doctor of Law, ex-Minister of Public Instruction, ex-Professor of International Law at the University of Turin, Deputy of the Italian Parliament, Councilor of State.	December 7, 1908.
Japan:	His Excellency Baron Itchirô Motono, Doctor of Law, Ambassador at St. Petersburg;	November 30, 1906.
	Mr. Henry Willard Denison, Law Officer of the Ministry of Foreign Affairs at Tokio.	November 30, 1906.
Luxemburg:	Mr. Henri Vannerus, President of the Council of State, ex-President of the Superior Court of Justice.	October 10, 1909.
Mexico:	Mr. José Ives Limantour, Doctor of Law, Secretary of State for the Ministry of Finance and Public Credit;	March 7, 1907.

Appointed by		Date of Appointment
	Mr. Pablo Macedo, Doctor of Law, President of the Monetary Commission, Director of the National School of Law of Mexico;	March 7, 1907.
	Mr. Joaquin Obregón González, Doctor of Law, Governor of the State of Guanajuato;	May 22, 1907.
	Mr. Joaquin D. Casasus, Doctor of Law, ex-Ambassador at Washington, ex-Director of the National School of Law of Mexico.	June 2, 1908.
Netherlands:	His Excellency Mr. T. M. C. Asser, Minister of State, Doctor of Law, Member of the Council of State, ex-Professor at the University of Amsterdam;	November 1, 1906.
	Mr. F. B. Coninck Liefsting, Doctor of Law, ex-President of the Court of Cassation;	November 1, 1906.
	His Excellency Mr. Jonkheer A. F. de Savornin Lohman, Minister of State, Doctor of Law, Minister of the Interior, ex-Professor at the Free University of Amsterdam, Member of the Second Chamber of the States-General;	November 1, 1906.
	Mr. Jonkheer G. L. M. H. Ruys de Beerenbrouck, Doctor of Law, ex-Minister of Justice, Member of the Council of State on Extraordinary Mission, Commissioner of the Queen in the Province of Limbourg.	November 1, 1906.
Nicaragua:	His Excellency Mr. Crisanto Medina, Envoy Extraordinary and Minister Plenipotentiary at Paris;	March 3, 1908.
	Mr. Désiré Pector, Consul-General at Paris.	March 3, 1908.
Norway:	Mr. G. Gram, ex-Minister of State, Provincial Governor;	December 22, 1906.
	His Excellency Mr. George-Francis Hagerup, Doctor of Law and Letters,	December 11, 1908.

Appointed by		Date of Appointment
	<p>ex-Minister of State and President of the Council, Envoy Extraordinary and Minister Plenipotentiary at Copenhagen and at The Hague, Member of the Nobel Committee of the Storthing, Member of the Institute of International Law;            Mr. Sigurd Ibsen, Doctor of Law, ex-Minister of State;            Mr. H. J. Horst, ex-President of the Lagthing, President of the Norwegian Group of the Interparliamentary Union for Arbitration and Peace, Member of the Interparliamentary Council, Member of the Nobel Committee of the Storthing, Member of the Commission of the International Peace Bureau.</p>	<p>March 31, 1906.            March 31, 1906.</p>
Persia:	<p>His Excellency Mirza Samad-Khan Momtazos-Saltaneh, Envoy Extraordinary and Minister Plenipotentiary at Paris;            His Excellency Mirza Hassan-Khan Muchir Ul Devlet, ex-Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg.</p>	<p>May 12, 1905.            May 12, 1905.</p>
Peru:	<p>His Excellency Mr. Carlos G. Candamo, Envoy Extraordinary and Minister Plenipotentiary at Paris.</p>	<p>September 2,            1907.</p>
Portugal:	<p>His Excellency Count de Macedo, Peer of the Realm, ex-Minister of Marine and Colonies, ex-Envoy Extraordinary and Minister Plenipotentiary at Madrid;            His Excellency Mr. Antonio Emilio Corrêa de Sá Brandaõ, President of the High Court of Justice, Councilor of State, Peer of the Realm, ex-Minister of Justice;            His Excellency Mr. Fernando Mattoso Santos, Peer of the Realm, ex-Minister of Finance and Foreign Affairs;</p>	<p>October 18,            1906.            December 24,            1906.            November 12,            1909.</p>

Appointed by		Date of Appointment
	His Excellency Mr. Francisco Antonio da Veiga Beirão, Councilor of State, Peer of the Realm, ex-Minister of Foreign Affairs and of Justice.	May 11, 1905.
<b>Roumania:</b>	Mr. Theodore G. Rosetti, ex-President of the Council of Ministers, ex-President of the High Court of Cassation and Justice, Senator;	November 21, 1906.
	Mr. Jean Kalinderu, Doctor of Law, ex-President of the High Court of Cassation and Justice, Member of the Roumanian Academy, Administrator of the Crown Domain;	November 21, 1906.
	Mr. Jean N. Lahovary, ex-Envoy Extraordinary and Minister Plenipotentiary, ex-Minister for Foreign Affairs, ex-Minister-Secretary of State of the Department of Agriculture, of Industry, of Commerce and of Domain, Deputy;	November 21, 1906.
	Mr. Constantin G. Dissescu, ex-Minister-Secretary of State of the Department of Public Worship and Instruction, Senator.	November 21, 1906.
<b>Russia:</b>	Mr. A. Sabouroff, Secretary of State, Member of the Council of the Empire, President of the First Department of the Council, Senator, Privy Councilor;	December 20, 1909.
	Mr. Tagantzeff, Member of the Council of the Empire, Senator, Privy Councilor;	December 20, 1909.
	Baron Taubé, Permanent Member of the Council of the Ministry for Foreign Affairs, Professor of International Law at the Imperial University of St. Petersburg, Councilor of State;	December 20, 1909.
	Count L. Kamarovsky, Professor of International Law at the Imperial University of Moscow, Councilor of State.	December 20, 1909.

Appointed by		Date of Appointment
Salvador:	Mr. Manuel Delgado, Doctor of Law, ex-Minister for Foreign Affairs, ex-Envoy Extraordinary and Minister Plenipotentiary, ex-Rector of the National University;	November 2, 1909.
	Mr. Salvador Gallegos, Doctor of Law, ex-Minister for Foreign Affairs, ex-Envoy Extraordinary and Minister Plenipotentiary;	November 2, 1909.
	Mr. Salvador Rodriguez Gonzalez, Doctor of Law, Secretary of State of the Department for Foreign Affairs, of Justice and Public Charities;	November 2, 1909.
	Mr. Santiago Perez Triana.	January 10, 1910.
Servia:	Mr. George Pavlovitch, ex-Minister of Justice, ex-Professor of Law of the University of Belgrade, ex-President of the Court of Cassation;	March 15/28, 1907.
	His Excellency Mr. Milovan Milovanovitch, Doctor of Law, Minister for Foreign Affairs, ex-Professor of Law of the University of Belgrade, ex-Envoy Extraordinary and Minister Plenipotentiary at Rome;	March 15/28, 1907.
	His Excellency Mr. Milenko R. Vesnitch, Doctor of Law, ex-Minister of Justice, ex-President of the Scoupchtina, ex-Professor of Law at the University of Belgrade, Envoy Extraordinary and Minister Plenipotentiary at Paris, Member of the Institute of International Law.	March 15/28, 1907.
Siam:	Mr. Frederick W. Verney, Member of the English Parliament, ex-Counselor of Legation at London;	June 9, 1909.
	Mr. Corragioni d'Orelli, Doctor of Law, Counselor of Legation at Paris.	June 9, 1909.
Spain:	Mr. Rafael de Ureña y Smenjaud, Doctor of Law, Professor in the Faculté of Madrid;	August 12, 1905.

Appointed by		Date of Appointment
	His Excellency Mr. S. Moret, Deputy, ex-President of the Council of Min- isters; His Excellency Mr. E. Dato, Deputy, ex-Minister of Justice; His Excellency Mr. Rafael M. de Labra, Senator, Advocate at the Court of Cassation, Member of the Institute of International Law.	January 10, 1907. January 10, 1907. January 10, 1907.
Sweden:	Mr. Knut Hjalmar Leonard de Ham- marskjöld, Doctor of Law, ex-Min- ister of Justice, ex-Minister of Wor- ship and of Public Instruction, ex- Envoy Extraordinary and Minister Plenipotentiary at Copenhagen, ex- President of the Court of Appeals of Jönköping, ex-Professor of Law of the University of Upsal, Governor of the Province of Upsal; Mr. Johan Fredrik Ivar Afzelius, Doc- tor of Law, President of the Court of Appeals of Svea, ex-Counselor of the Supreme Court of the Kingdom, Member of the First Chamber of the Diet; Mr. Johannes Hellner, Doctor of Law, ex-Minister, ex-Counselor of the Su- preme Court of the Kingdom, Mem- ber of the First Chamber of the Diet; His Excellency Baron Carl Nils Daniel Bildt, Doctor of Letters, Envoy Ex- traordinary and Minister Plenipoten- tiary at Rome, Member of the Swed- ish Academy at Stockholm.	December 2, 1904.     February 18, 1905.  December 7, 1906. December 7, 1906.
Switzerland:	His Excellency Mr. Charles Edouard Lardy, Doctor of Law, Envoy Extra- ordinary and Minister Plenipoten- tiary at Paris, Member of the Insti- tute of International Law; Mr. Eugène Huber, Doctor of Law, Member of the National Council,	December 8, 1906.  June 10, 1905.

Appointed by		Date of Appointment
Turkey:	Professor of Private Law at the University of Berne;	
	Mr. Leo Weber, Doctor of Law, ex-Federal Judge, Judge-Adocate and Auditor-in-Chief of the Swiss Army.	To serve until the end of December 1912.
	His Highness Ibrahim Hakky Pacha, Grand Vizier;	January 28, 1909.
	His Excellency Gabriel Effendi Nouradounghian, Senator, ex-Minister of Commerce and Public Works;	January 28, 1909.
	His Excellency Yorghiadis Effendi, Senator;	January 28, 1909.
United States:	His Excellency Said Bay, Vice-President of the Legislative Section of the Council of State.	September 17, 1909.
	Honorable Melville W. Fuller, Chief Justice of the United States;	November 27, 1906.
	Honorable John W. Griggs; ex-Attorney-General;	November 27, 1906.
	Honorable George Gray, United States Circuit Judge, ex-Senator;	November 27, 1906.
	Honorable Oscar S. Straus, ex-Secretary of Commerce and Labor, Ambassador at Constantinople.	January 29, 1908.
Uruguay:	Mr. José Batlle y Ordoñez, ex-President of the Republic, ex-President of the Senate.	August 9, 1907.
	His Excellency Mr. Gonzalo Ramirez, Doctor of Law, Professor of Law at the University of Montevideo, Envoy Extraordinary and Minister Plenipotentiary at Buenos Aires;	August 9, 1907.
	Mr. Juan Pedro Castro, Doctor of Law, ex-Professor of Civil Law at the University of Montevideo, Honorary Member of the Board of Directors of Public Instruction, ex-President of the Senate, ex-Envoy Extraordinary and Minister Plenipotentiary at Paris and at Brussels.	August 9, 1907.



Appointed by		Date of Appointment
Venezuela:	Mr. Nicomedes Zuloaga, Doctor of Law, Attorney, ex-Member of the Court of Cassation;	March 23, 1909.
	Mr. Francisco Arroyo Parejo, Doctor of Law, Attorney, ex-Solicitor General, Professor of Civil Law at the University of Caracas;	March 23, 1909.
	Mr. Carlos Léon, Doctor of Law, Attorney, ex-Minister of Public Instruction, ex-Member of the Court of Cassation, Professor of Political Economy and of Sociology at the University of Caracas;	March 23, 1909.
	Mr. Manuel Antonio Matos, ex-Senator, ex-Minister of Finance.	March 23, 1909.

## OFFICIAL DOCUMENTS

### CONVENTION BETWEEN RUSSIA AND JAPAN CONCERNING MANCHURIA.

*Signed at St. Petersburg, July 4, 1910.*

The Imperial Governments of Russia and Japan, being sincerely attached to the principles established by the convention concluded between them on July 30, 1907,<sup>1</sup> and being desirous of developing the effects of this convention with a view to the consolidation of peace in the Far East, have agreed to complete the said arrangement in the following manner:—

1. With the object of facilitating communications and developing the commerce of the nations, the two high contracting parties agree to extend to one another their friendly cooperation with a view to the improvement of their respective railway lines in Manchuria and the perfecting of the connecting services of the said lines, and to abstain from all competition prejudicial to the realization of this object.

2. Each of the high contracting parties undertakes to maintain and respect the *status quo* in Manchuria resulting from all the treaties, conventions, and other arrangements concluded up to this date, either between Russia and Japan or between those two powers and China. Copies of the said arrangements have been exchanged between Russia and Japan.

3. In the event of anything arising of a nature to threaten the *status quo* mentioned above the two high contracting parties shall enter each time into communication with each other with a view to coming to an understanding as to the measures they may think it necessary to take for the maintenance of the said *status quo*.

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### NOTE OF CHINESE GOVERNMENT TO THE POWERS CONCERNING THE RUSSO-JAPANESE CONVENTION OF JULY 4, 1910, REGARDING MANCHURIA.

*July 21, 1910.*

The Imperial Government having carefully perused the new Russo-Japanese Convention, concluded on July 4, 1910, copies of which were handed to the Wai-wu-pu by the Russian and Japanese Ministers, the following acknowledgment, dated July 21, has been sent to them:—

<sup>1</sup> SUPPLEMENT, 1:396.

Since the convention expressly states that each of the high contracting parties engage to respect and maintain the treaties, conventions, and other arrangements concluded between China and Japan, between China and Russia, and between Japan and Russia, it therefore accords with and confirms the principles of the engagements made between Japan and Russia by the Treaty of Peace in 1905,<sup>1</sup> and those of the Treaty and Agreement made between China and Japan relating to matters in the three eastern provinces.<sup>2</sup> For by Article 3 of the Russo-Japanese Treaty of Peace, Russia and Japan mutually engage to restore entirely and completely to the exclusive administration of China all portions of Manchuria, and declare that the Imperial Governments have not in Manchuria any territorial advantages or preferential or exclusive concessions in impairment of Chinese sovereignty, or inconsistent with the principle of equal opportunity; and by Article 4 Japan and Russia reciprocally engage not to obstruct any general measures common to all countries which China may take for the development of the commerce and industry of Manchuria. In the same year Japan and China named their plenipotentiaries, and agreed upon and concluded Articles at Peking, based upon the Treaty of Peace concluded at Portsmouth, and relating to matters in the three Manchurian provinces, whereby the opening of Manchuria becomes an accomplished fact.

The Imperial Government will therefore in the future act in accordance with the principles declared in the Russo-Japanese Treaty of Peace, and execute the provisions of the Treaty and Agreement with Japan, maintaining with increased efforts such matters as measures arising from the exercise of China's rights of sovereignty, the principle of equal opportunity, and the development of the commercial and industrial prosperity of the three Manchurian provinces, with a view to the promotion of the best interests of all parties.

A copy of the above acknowledgment has been presented to the governments of all the countries with which China enjoys treaty and diplomatic relations.

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#### PROCLAMATION OF JAPAN ANNEXING KOREA.

Notwithstanding the earnest and laborious work of reform in the administration of Korea in which the Governments of Japan and Korea have been engaged for more than four years since the conclusion of the

<sup>1</sup> SUPPLEMENT, 1:17.

<sup>2</sup> This SUPPLEMENT, p. 307.

Agreement of 1905, the existing system of government in that country has not proved entirely equal to the duty of preserving public order and tranquillity; and, in addition, the spirit of suspicion and misgiving dominates the whole peninsula.

In order to maintain peace and stability in Korea, to promote the prosperity and welfare of Koreans, and at the same time to ensure the safety and repose of foreign residents, it has been made abundantly clear that fundamental changes in the actual *régime* of government are absolutely essential. The Governments of Japan and Korea, being convinced of the urgent necessity of introducing reforms responsive to the requirements of the situation and of furnishing sufficient guarantee for the future, have, with the approval of his Majesty the Emperor of Japan and his Majesty the Emperor of Korea, concluded, through their respective plenipotentiaries, a treaty providing for complete annexation of Korea to the Empire of Japan. By virtue of that important act, which shall take effect on its promulgation on August 29, 1910, the Imperial Government of Japan undertake the entire government and administration of Korea, and they hereby declare that the matters relating to foreigners and foreign trade in Korea shall be conducted in accordance with the following rules:—

1. Treaties hitherto concluded by Korea with foreign powers ceasing to be operative, Japan's existing treaties will, so far as practicable, be applied to Korea. Foreigners resident in Korea will, so far as conditions permit, enjoy the same rights and immunities as in Japan proper, and the protection of their legally acquired rights subject in all cases to the jurisdiction of Japan. The Imperial Government of Japan are ready to consent that the jurisdiction in respect of the cases actually pending in any foreign Consular Court in Korea at the time the Treaty of Annexation takes effect shall remain in such Court until final decision.

2. Independently of any conventional engagements formerly existing on the subject, the Imperial Government of Japan will for a period of ten years levy upon goods imported into Korea from foreign countries or exported from Korea to foreign countries and upon foreign vessels entering any of the open ports of Korea the same import or export duties and the same tonnage dues as under the existing schedules. The same import or export duties and tonnage dues as those to be levied upon the aforesaid goods and vessels will also for a period of ten years be applied in respect of goods imported into Korea from Japan or exported from Korea to Japan and Japanese vessels entering any of the open ports of Korea.

3. The Imperial Government of Japan will also permit for a period of ten years vessels under flags of the powers having treaties with Japan to engage in the coasting trade between the open ports of Korea and between those ports and any open port of Japan.

4. The existing open ports of Korea, with the exemption of Masampo, will be continued as open ports, and in addition Shiwiju will be newly opened so that vessels, foreign as well as Japanese, will there be admitted and goods may be imported into and exported from these ports.

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TREATY ANNEXING KOREA TO JAPAN.

*August 29, 1910.*

His Majesty the Emperor of Japan and his Majesty the Emperor of Korea, having in view the special and close relations between their respective countries, desiring to promote the common weal of the two nations and to assure permanent peace in the Extreme East, and being convinced that these objects can be best attained by the annexation of Korea to the Empire of Japan, have resolved to conclude a treaty of such annexation and have, for that purpose, appointed as their plenipotentiaries, that is to say, his Majesty the Emperor of Japan Viscount Masakata Terauchi, his Resident-General, and his Majesty the Emperor of Korea Ye Wan Yeng, his Minister-President of State, who upon mutual conference and deliberation have agreed to the following articles:—

Article I. His Majesty the Emperor of Korea makes complete and permanent cession to his Majesty the Emperor of Japan of all rights of sovereignty over the whole of Korea.

Article II. His Majesty the Emperor of Japan accepts the cession mentioned in the preceding article and consents to the complete annexation of Korea to the Empire of Japan.

Article III. His Majesty the Emperor of Japan will accord to their Majesties the Emperor and ex-Emperor and his Imperial Highness the Crown Prince of Korea and their consorts and heirs such titles, dignities, and honors as are appropriate to their respective ranks, and sufficient annual grants will be made for the maintenance of such titles, dignities and honors.

Article IV. His Majesty the Emperor of Japan will also accord appropriate honor and treatment to the members of the Imperial House of Korea and their heirs other than those mentioned in the preceding article,

and funds necessary for the maintenance of such honor and treatment will be granted.

Article V. His Majesty the Emperor of Japan will confer peerages and monetary grants upon those Koreans who, on account of meritorious services, are regarded as deserving such special recognition.

Article VI. In consequence of the aforesaid annexation the Government of Japan assumes the entire government and administration of Korea, and undertake to afford full protection for the persons and property of the Koreans obeying the laws there in force and to promote the welfare of all such Koreans.

Article VII. The Government of Japan will, so far as circumstances permit, employ in the public services of Japan in Korea those Koreans who accept the new *régime* loyally and in good faith and who are duly qualified for such services.

Article VIII. This treaty, having been approved by his Majesty the Emperor of Japan and his Majesty the Emperor of Korea, shall take effect from the date of its promulgation.

In faith thereof, &c.

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IMPERIAL JAPANESE RESCRIPT ATTACHED TO THE PROCLAMATION AND  
TREATY OF ANNEXATION.

We, attaching the highest importance to the maintenance of permanent peace in the Orient and the consolidation of lasting security to our Empire, and finding in Korea constant and fruitful sources of complication, caused our government to conclude in 1905 an agreement with the Korean Government by which Korea was placed under the protection of Japan in the hope that all disturbing elements might thereby be removed and peace assured for ever. For the four years and over which have since elapsed, our government have exerted themselves with unwearied attitude to promote reforms in the administration of Korea, and their efforts have, in a degree, been attended with success, but at the same time, the existing *régime* of government in that country has shown itself hardly effective to preserve peace and stability, and in addition the spirit of suspicion and misgiving dominates the whole peninsula.

In order to maintain public order and security, and to advance the happiness and well-being of the people, it has become manifest that fundamental changes in the present system of government are inevitable.

We, in concert with his Majesty the Emperor of Korea, having in view this condition of affairs, and being equally persuaded of the necessity of annexing the whole of Korea to the Empire of Japan in response to the actual requirement of the situation, have now arrived at the arrangement for such permanent annexation. His Majesty the Emperor of Korea and the members of his Imperial House will, notwithstanding the annexation, be accorded due and appropriate treatment. All Koreans, being under our sway, will enjoy growing prosperity and welfare, and with assured repose and security will come a marked expansion in industry and trade. We confidently believe that the new order of things now inaugurated will serve as a fresh guarantee of enduring peace in the Orient. We order the establishment of a Governor-General of Korea. The Governor-General will under our direction exercise the command of the army and the navy and a general control over all administrative functions in Korea. We call upon all our officials and authorities to fulfil their respective duties in appreciation of our will, and to conduct the various branches of administration in consonance with the requirements of the occasion, so that our subjects may long enjoy the blessings of peace and tranquillity.

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ANNOUNCEMENT OF THE JAPANESE FOREIGN OFFICE.

*August, 29, 1910.*

1. Korea shall hereafter be named "Chosen."
2. The Government-General shall be established in Chosen.
3. The Residency-General and its accessory offices will be in existence for the present, and the Resident-General will exercise the functions of the Governor-General.
4. The issue of special passports for the people of Chosen is abolished, and hereafter the Chosens will be treated on an equal footing as the Japanese in the matter.

At the same time as the promulgation of the Annexation Treaty, which took place to-day, an Imperial Rescript was issued granting amnesty to a number of prisoners, both of grave and minor offences, on account of extenuating circumstances, and also granting diminution or exemption of the taxes non-paid in past years and taxes to be collected during this year.

CONVENTION BETWEEN THE GERMAN EMPIRE AND CHINA RESPECTING THE  
LEASE OF KIAO-CHAU.<sup>1</sup>*Signed at Peking, March 6, 1898.*

## [TRANSLATION]

The incidents connected with the mission in the Prefecture of Tsao-chau-foo, in Shantung, being now closed, the Imperial Chinese Government consider it advisable to give a special proof of their grateful appreciation of the friendship shown to them by Germany. The Imperial German and the Imperial Chinese Governments, therefore, inspired by the equal and mutual wish to strengthen the bonds of friendship which unite the two countries, and to develop the economic and commercial relations between the subjects of the two States, have concluded the following separate convention:—

## ARTICLE I.

His Majesty the Emperor of China, guided by the intention to strengthen the friendly relations between China and Germany, and at the same time to increase the military readiness of the Chinese Empire, engages, while reserving to himself all rights of sovereignty in a zone of 50 kilom. (100 Chinese *li*) surrounding the Bay of Kiao-chau at high-water, to permit the free passage of German troops within this zone at any time, as also to abstain from taking any measures, or issuing any ordinances therein, without the previous consent of the German Government, and especially to place no obstacle in the way of any regulation of the water-courses which may prove to be necessary. His Majesty the Emperor of China, at the same time, reserves to himself the right to station troops within that zone, in agreement with the German Government, and to take other military measures.

## ARTICLE II.

With the intention of meeting the legitimate desire of His Majesty the German Emperor, that Germany, like other powers, should hold a place on the Chinese coast for the repair and equipment of her ships, for the storage of materials and provisions for the same, and for other arrangements connected therewith, His Majesty the Emperor of China

<sup>1</sup> Rockhill, *Treaties and conventions with or concerning China and Korea, 1894-1904*, p. 45.



cedes to Germany on lease, provisionally for ninety-nine years, both sides of the entrance to the Bay of Kiao-chau. Germany engages to construct, at a suitable moment, on the territory thus ceded, fortifications for the protection of the buildings to be constructed there and of the entrance to the harbor.

#### ARTICLE III.

In order to avoid the possibility of conflicts, the Imperial Chinese Government will abstain from exercising rights of sovereignty in the ceded territory during the term of the lease, and leaves the exercise of the same to Germany within the following limits:—

(1) On the northern side of the entrance to the bay:

The peninsula bounded to the north-east by a line drawn from the north-eastern corner of Potato Island to Loshan Harbour.

(2) On the southern side of the entrance to the bay:

The peninsula bounded to the south-west by a line drawn from the south-westernmost point of the bay lying to the south-south-west of Chiposan Island in the direction of Tolosan Island.

(3) The Island of Chiposan and Potato Island.

(4) The whole water area of the bay up to the highest watermark at present known.

(5) All islands lying seaward from Kiao-chau Bay, which may be of importance for its defence, such as Tolosan, Chalienchow, &c.

The high contracting parties reserve to themselves to delimitate more accurately, in accordance with local traditions, the boundaries of the territory leased to Germany and of the 50-kilom. zone round the bay, by means of commissioners to be appointed on both sides.

Chinese ships of war and merchant-vessels shall enjoy the same privileges in the Bay of Kiao-chau as the ships of other nations on friendly terms with Germany; and the entrance, departure, and sojourn of Chinese ships in the bay shall not be subject to any restrictions other than those which the Imperial German Government, in virtue of the rights of sovereignty over the whole of the water area of the bay transferred to Germany, may at any time find it necessary to impose with regard to the ships of other nations.

#### ARTICLE IV.

Germany engages to construct the necessary navigation signals on the islands and shallows at the entrance of the bay.

No dues shall be demanded from Chinese ships of war and merchant-vessels in the Bay of Kiao-chau, except those which may be levied upon other vessels for the purpose of maintaining the necessary harbor arrangements and quays.

#### ARTICLE V.

Should Germany at some future time express the wish to return Kiao-chau Bay to China before the expiration of the lease, China engages to refund to Germany the expenditures she has incurred at Kiao-chau, and to cede to Germany a more suitable place.

Germany engages at no time to sublet the territory leased from China to another power.

The Chinese population dwelling in the ceded territory shall at all times enjoy the protection of the German Government, provided that they behave in conformity with law and order; unless their land is required for other purposes they may remain there.

If land belonging to Chinese owners is required for any other purpose, the owner will receive compensation therefor.

As regards the re-establishment of Chinese customs stations which formerly existed outside the ceded territory, but within the 50-kilom. zone, the Imperial German Government intends to come to an agreement with the Chinese Government for the definitive regulation of the customs frontier, and the mode of collecting customs duties, in a manner which will safeguard all the interests of China, and proposes to enter into further negotiations on the subject.

#### SECTIONS II AND III.

I. The Chinese Government sanctions the construction by Germany of two lines of railway in Shantung. The first will run from Kiao-chau and Tsinan-fu to the boundary of Shantung province via Wei-hsien, Tsinchow, Pashan, Tsechuen and Suiping. The second line will connect Kiao-chau with Chinchow, whence an extension will be constructed to Tsinan through Laiwu-hsien. The construction of this extension shall not be begun until the first part of the line, the main line, is completed, in order to give the Chinese an opportunity of connecting this line in the most advantageous manner with their own railway system. What places the line from Tsinan-fu to the provincial boundary shall take en route is to be determined hereafter.

II. In order to carry out the above mentioned railway work a Chino-

German company shall be formed, with branches at whatever places may be necessary, and in this company both German and Chinese subjects shall be allowed to invest money if they so choose, and appoint directors for the management of the undertaking.

III. All arrangements in connection with the works specified shall be determined by a future conference of German and Chinese representatives. The Chinese Government shall afford every facility and protection and extend every welcome to representatives of the German railway company operating in Chinese territory.

Profits derived from the working of these railways shall be justly divided pro rata between the shareholders without regard to nationality. The object of constructing these lines is solely the development of commerce. In inaugurating a railway system in Shantung Germany entertains no treacherous intention towards China, and undertakes not to unlawfully seize any land in the province.

IV. The Chinese Government will allow German subjects to hold and develop mining property for a distance of 30 li from each side of these railways and along the whole extent of the lines. The following places where mining operations may be carried on are particularly specified along the northern railway from Kiao-chau to Tsinan, Wei-hsien, Pao-an-tsen and various other points; and along the southern Kiao-chau-Tsinan Chinchow line, Chinchow-fu, Laiwu-hsien, etc.

Chinese capital may be invested in these operations and arrangements for carrying on the work shall hereafter be made by a joint conference of Chinese and German representatives.

All German subjects engaged in such works in Chinese territory shall be properly protected and welcomed by the Chinese authorities and all profits derived shall be fairly divided between Chinese and German shareholders according to the extent of the interest they hold in the undertakings.

In trying to develop mining property in China, Germany is actuated by no treacherous motives against this country, but seeks alone to increase commerce and improve the relations between the two countries.

The Chinese Government binds itself in all cases where foreign assistance, in persons, capital or material, may be needed for any purpose whatever within the Province of Shantung, to offer the said work or supplying of materials, in the first instance to German manufacturers and merchants engaged in undertakings of the kind in question.

In case German manufacturers and merchants are not inclined to

undertake the performance of such works or the furnishing of materials, China shall then be at liberty to act as she pleases.

The above agreement shall be ratified by the sovereigns of both the contracting states, and the ratifications exchanged in such manner that, after the receipt in Berlin of the treaty ratified by China, the copy ratified by Germany shall be handed to the Chinese Minister in Berlin.

The foregoing treaty has been drawn up in four copies, two in German and two in Chinese, and was signed by the representatives of the two contracting states on the 6th March, 1898, corresponding to the 14th day of the second month in the twenty-fourth year Kuang-hsü.

(Great Seal of the Tsung-li Yamên.)

The Imperial German Minister,

(Signed)

BARON VON HEYKING.

LI HUNG-CHANG (in Chinese),

*Imperial Chinese Grand Secretary, Minister of the Tsung-li Yamen, &c.,*

WENG TUNG-HO (in Chinese),

*Imperial Chinese Grand Secretary, Member of the Council of State,  
Minister of the Tsung-li, Yamen, &c.*

CONVENTION BETWEEN RUSSIA AND CHINA FOR LEASE TO RUSSIA OF PORT  
ARTHUR, TALIENTWAN, AND THE ADJACENT WATERS.<sup>1</sup>

*Signed at Peking, March 27, 1898.*

[TRANSLATION]

On the 6th day of the 3rd moon of the 24th year of Kuang Hsü (27th March, 1898), His Majesty the Emperor of China especially deputed the Grand Secretary Li, and the Vice-President of the Board of Revenue Chang, as plenipotentiaries to settle the matters connected with the loan of Port Arthur and Talienwan, with the Russian Charge d'Affaires Pavloff.

The convention drawn up is as follows:

Article I. In order for the protection of the Russian fleet, and (to enable it) to have a secure base on the north coast of China, His Majesty the Emperor of China agrees to lease to Russia Port Arthur, Talienwan, and the adjacent waters. But this lease is to be without prejudice to China's authority in that territory.

<sup>1</sup> Rockhill, p. 50.

Art. II. The boundary of the territory leased in pursuance of the foregoing extends from Talienwan northward in accordance with the requirements (of the situation) on land, and of the protection of the territory, and permission shall be given for its being placed at whatever distance may be necessary.

The exact boundary and the other details of this convention, shall be jointly arranged at St. Petersburg with Hsü Ta-jên, after the signature of this convention, with all possible expedition, and a separate special article drawn up. After the boundary has been decided, all the territory included in it, and the adjacent waters shall be entirely handed over to Russia to use under lease.

Art. III. The term of lease is fixed as twenty-five years from the date of signature. On expiration an extension of the term may be arranged between the two countries.

Art. IV. Within the term fixed, in the territory leased to Russia, and in the adjacent waters, all movements of forces, whether naval or military, and (the appointment of) high officials to govern the districts, shall be entirely left to Russian officers, one man being made responsible, but he is not to have the title of governor-general or governor.

No Chinese troops of any kind whatever are to be allowed to be stationed within this boundary. Chinese within the boundary may leave or remain at their pleasure, and are not to be driven away.

Should any criminal cases occur, the criminal is to be handed over to the nearest Chinese official to be punished according to law, in accordance with the arrangement laid down by the VIIIth Article of the Russian-Chinese Treaty of the 10th year of Hsien Fêng (1860).

Art. V. To the north of the territory leased there shall be left a piece of territory, the extent of which is to be arranged by Hsü Ta-jên and the Russian Foreign Office. This piece is to be entirely left to Chinese officials, but no Chinese troops are to enter it, except after arrangement with the Russian officials.

Art. VI. The governments of the two countries agree that, as Port Arthur is solely a naval port, only Russian and Chinese vessels are to be allowed to use it, and it is to be considered a closed port as far as the war and merchant-vessels of the other powers are concerned.

As to Talienwan, with the exception of a part within the port which, like Port Arthur, is to be reserved for the use of Russian and Chinese men-of-war, the remainder is to be a trading port, where the merchant-vessels of all countries can freely come and go.

Art. VII. Russia definitely recognizes the territory leased, but Port Arthur and Talienwan are of special importance. (As to) provision of funds, she will herself erect what buildings are required for the naval or military forces, for the erection of batteries, or barracks for the garrisons, and generally provide all the funds required.

Art. VIII. The Chinese Government agree that the principle of the permission given in the 22nd year of Kuang Hsü (1896) to the Manchurian Railway Company for the construction of a railway shall now, from the date of signature, be extended to the construction of a branch line from a certain station on the aforesaid main line to Talienwan, or, if necessity requires, the same principle shall be extended to the construction of a branch line from the main line to a convenient point on the sea-coast in the Liaotung Peninsula, between Ying-tzu (Newchwang) and the Yalu River.

The provisions of the agreement of the 8th September, 1896, between the Chinese Government and the Russo-Chinese Bank shall be strictly observed with regard to the branch line above mentioned. The direction of the line and the places it is to pass shall be arranged by Hsü Ta-jên and the Manchurian Railway Company. But this railway concession is never to be used as a pretext for encroachment on Chinese territory, nor to be allowed to interfere with Chinese authority or interests.

Art. IX. This convention shall come into force from the date of exchange [*sic*] by the plenipotentiaries of both countries. After Imperial ratification exchange shall take place at St. Petersburg.

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ADDITIONAL AGREEMENT DEFINING BOUNDARIES OF LEASED AND NEUTRALIZED TERRITORY IN LIAO-TUNG PENINSULA.<sup>1</sup>

*Signed at St. Petersburg, 7th May, 1898.*

[TRANSLATION]

The Governments of Russia and China being desirous of adding some stipulations to the treaty concluded at Peking on the 15th March, 1898 (Russian Calendar) the plenipotentiaries of both governments have agreed upon the following:—

Article I. In accordance with the II<sup>nd</sup> Article of the original treaty the northern territory leased and yielded to Russia—Port Arthur, Talien-

<sup>1</sup> Rockhill, p. 53.

wan, and the Liao-tung Peninsula — shall commence from the north side of A-sang Bay on the west coast of Liao-tung and shall pass through the ridge of A-sang Mountain, the mountain ridge being included in the leased ground, to the east coast of Liao-tung near the north side of P'ien-tai-wa Bay. Russia shall be allowed the use of all the waters adjacent to the leased territory and all the islands around it.

Both countries shall appoint special officers to survey the ground and determine the limits of the leased territory.

Art. II. To the north of the boundary fixed in Art. I there shall, in accordance with Art. V of the Peking Treaty, be a neutral ground, the northern boundary of which shall commence on the west coast of Liao-tung at the mouth of the Kai-shou River, shall pass north of Yuen-ch'ang to the Tai-yang River, and shall follow the left bank of that river to its mouth, which shall be included in the neutral territory.

Art. III. The Russian Government consents that the terminus of the branch line connecting the Siberian Railway with the Liao-tung Peninsula shall be at Port Arthur and Talienwan, and at no other port in the said peninsula.

It is further agreed in common that railway privileges in districts traversed by this branch line shall not be given to the subjects of other powers. As regards the railway which China shall [may] herself build hereafter from Shan-hai-kuan in extension to a point as near as [lit. nearest to] possible to this branch line, Russia agrees that she has nothing to do with it.

Art. IV. The Russian Government assents to the request of the Chinese Government that the administration and police of the City of Kinchow shall be Chinese. Chinese troops will be withdrawn from Kinchow and replaced by Russian troops. The inhabitants of the city have the power to use the roads from Kinchow to the north boundary of the leased territory, and the waters usually required near the city, but they have no power to use the sea-coast round about.

Art. V. The Chinese Government agrees [lit. agrees to recognize]:

1. That without Russia's consent no concession will be made in the neutral ground for the use of subjects of other powers.
2. That the ports on the sea-coast east and west of the neutral ground shall not be opened to the trade of other powers.
3. And that without Russia's consent no road and mining concessions, industrial and mercantile privileges shall be granted in the neutral territory.

CONVENTION FOR THE LEASE OF KUANG-CHOU WAN.<sup>1</sup>

*Submitted to the Tsung-li Yamen, May 27, 1898; Ratified by China,  
January 5, 1900.*

## [TRANSLATION]

## ARTICLE I.

The Chinese Government, in consideration of its friendship for France, has given by a lease for 99 years Kuang-chou wan to the French Government to establish there a naval station with coaling depot, but it is understood that this shall not offset the sovereign rights of China over the territory ceded.

## ARTICLE II.

The leased territory shall include the waters and ground necessary for the security, the provisioning and the normal development of the naval station and of the coaling depot, that is to say:

- (a) The island of Tong-hai;
- (b) The island of Nao-chou;
- (c) At Lei-chou, a strip of land connecting a point of the coast south of Kiu-man sien (Tiao-man) and situated in 20° 50' north latitude, with She-men in 21° 25' north latitude along a strip roughly indicated on the annexed map.<sup>2</sup>
- (d) At Kao-chou, a strip of land comprised between 21° 25' north latitude and 21° 04' north latitude, along a strip roughly indicated on the annexed map.
- (e) The small islands situated inside of Kuang-chou wan, as well as the interior and exterior waters of the bay, and the exterior waters of Nao-chou and of Tong-hai, within the limits recognized in international law (six marine miles).

The exact limits on the continent of Lei-chou and of Kao-chou shall be fixed, after the signing of the present convention, when special surveys shall have been made by officials designated by the two governments. Said officials shall begin their work without delay, so that all possible misunderstanding between the two countries shall be obviated.

<sup>1</sup> Rockhill, p. 55.

<sup>2</sup> Omitted.



## ARTICLE III.

The territory shall be governed and administered during the 99 years of the lease by France alone, so that all possible misunderstanding between the two countries shall be obviated.

The inhabitants shall continue to enjoy their property; they may continue to inhabit the leased territory and pursue their labors and occupations, under the protection of France, so long as they respect its laws and regulations. France shall pay an equitable price to the native property owners for the land which it may wish to acquire.

## ARTICLE IV.

France may erect fortifications, place garrisons of troops or take any other defensive measure on the leased land. She may erect light-houses, set buoys and signals useful for navigation on the leased territory, along the islands and coasts, and, in a general way, take all measures and adopt all plans to insure the freedom and safety of navigation.

## ARTICLE V.

Steamers of China as well as the ships of the powers having diplomatic and commercial relations with her, shall be treated within the leased territory in the same manner as in the opened part of China.

France may issue all regulations she may wish for the administration of the territory and of the ports and particularly levy light-house and tonnage dues destined to cover the expense of erecting and keeping up lights, beacons and signals, but such regulations and dues shall be impartially used for ships of all nationalities.

## ARTICLE VI.

If cases of extradition should occur, they shall be dealt with according to the provisions of existing conventions between France and China, particularly those regulating the neighboring relations between China and Tongking.

## ARTICLE VII.

The Chinese Government authorizes France to construct a railway connecting a point on the bay of Kuang-chou wan, by Lei chou, with a point to be designated on the west coast of Lei-chou, in the neighborhood of On-pu. This latter point shall be precisely designated later on.

China will give the land, but the expenses of building and working shall be borne by France. Chinese shall have the right to travel and trade on the railway, in accordance with the general tariff in force.

The mandarins must see to the protection of the railway and the stock, but the repairs and maintenance of said road and its stock shall be at the expense of France.

#### ARTICLE VIII.

France may also, at the end of the line about On-pu, build landing stages, wharves, storehouses and hospitals, put up lights, buoys and signals. The nearest deep water anchorage to this terminus (territorial waters) shall be exclusively reserved for French and Chinese ships of war, those of the latter nationality only when neutral.

The present convention shall come into force at once. It shall be ratified at once by the Emperor of China, and when it shall have been ratified by the President of the French Republic, the exchange of ratifications shall take place at ——— within the briefest delay.

Done at Peking in eight copies, of which four are in the French language and four in Chinese, the . . . . ., 1898.

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#### CONVENTION BETWEEN THE UNITED KINGDOM AND CHINA RESPECTING AN EXTENSION OF HONG KONG TERRITORY.<sup>1</sup>

*Signed at Peking, June 9, 1898; Ratifications exchanged at London,  
August 6, 1898.*

Whereas it has for many years past been recognized that an extension of Hong Kong territory is necessary for the proper defence and protection of the colony,

It has now been agreed between the Governments of Great Britain and China that the limits of British territory shall be enlarged under lease to the extent indicated generally on the annexed map.<sup>2</sup> The exact boundaries shall be hereafter fixed when proper surveys have been made by officials appointed by the two governments. The term of this lease shall be ninety-nine years.

<sup>1</sup> Rockhill, p. 58.

<sup>2</sup> Omitted.

It is at the same time agreed that within the city of Kowloon the Chinese officials now stationed there shall continue to exercise jurisdiction except so far as may be inconsistent with the military requirements for the defence of Hong Kong. Within the remainder of the newly-leased territory Great Britain shall have sole jurisdiction. Chinese officials and people shall be allowed as heretofore to use the road from Kowloon to Hsinan.

It is further agreed that the existing landing-place near Kowloon city shall be reserved for the convenience of Chinese men-of-war, merchant and passenger vessels, which may come and go and lie there at their pleasure; and for the convenience of movement of the officials and people within the city.

When hereafter China constructs a railway to the boundary of the Kowloon territory under British control, arrangements shall be discussed.

It is further understood that there will be no expropriation or expulsion of the inhabitants of the district included within the extension, and that if land is required for public offices, fortifications, or the like official purposes, it shall be bought at a fair price.

If cases of extradition of criminals occur, they shall be dealt with in accordance with the existing treaties between Great Britain and China and the Hong Kong Regulations.

The area leased to Great Britain as shown on the annexed map, includes the waters of Mirs Bay and Deep Bay, but it is agreed that Chinese vessels of war, whether neutral or otherwise, shall retain the right to use those waters.

This convention shall come into force on the first day of July, eighteen hundred and ninety-eight, being the thirteenth day of the fifth moon of the twenty-fourth year of Kuang Hsü. It shall be ratified by the sovereigns of the two countries, and the ratifications shall be exchanged in London as soon as possible.

In witness whereof the undersigned, duly authorized thereto by their respective governments, have signed the present agreement.

Done at Peking in quadruplicate (four copies in English and four in Chinese) the ninth day of June, in the year of our Lord eighteen hundred and ninety-eight, being the twenty-first day of the fourth moon of the twenty-fourth year of Kuang Hsü.

(L. S.)      CLAUDE M. MACDONALD.

(L. S.)      (Seal of the Chinese Plenipotentiary.)

CONVENTION BETWEEN GREAT BRITAIN AND CHINA FOR THE LEASE OF  
WEI-HAI WEI.<sup>1</sup>

*Signed at Peking, July 1, 1898.*

In order to provide Great Britain with a suitable naval harbour in North China and for the better protection of British commerce in the neighbouring seas, the Government of His Majesty the Emperor of China agree to lease to the Government of Her Majesty the Queen of Great Britain and Ireland, Wei-hai Wei, in the province of Shantung and the adjacent waters, for so long a period as Port Arthur shall remain in the occupation of Russia.

The territory leased shall comprise the Island of Liu-kung and all other islands in the Bay of Wei-hai Wei, and a belt of land 10 English miles wide along the entire coast line of the Bay of Wei-hai Wei. Within the above-mentioned territory leased Great Britain shall have sole jurisdiction.

Great Britain shall have, in addition, the right to erect fortifications, station troops, or take any other measures necessary for defensive purposes, at any points on or near the coast of the region east of the meridian 121° 40' east of Greenwich, and to acquire on equitable compensation within that territory such sites as may be necessary for water supply, communications, and hospitals. Within that zone Chinese administration will not be interfered with, but no troops other than Chinese or British shall be allowed therein.

It is also agreed that within the walled city of Wei-hai Wei, Chinese officials shall continue to exercise jurisdiction except so far as may be inconsistent with naval and military requirements for the defence of the territory leased. It is further agreed that Chinese vessels of war, whether neutral or otherwise, shall retain the right to use the waters herein leased to Great Britain.

It is further understood that there will be no expropriation or expulsion of the inhabitants of the territory herein specified, and that if land is required for fortifications, public offices, or any official or public purpose, it shall be bought at a fair price.

This convention shall come into force on signature. It shall be ratified by the sovereigns of the two countries, and the ratifications shall be exchanged in London as soon as possible.

<sup>1</sup> Rockhill, p. 60.

In witness whereof the undersigned, duly authorized thereto by their respective governments, have signed the present agreement.

CLAUDE M. MACDONALD.

PRINCE CH'ING,

*Senior Member of the Tsung-li Yamèn.*

LIAO SHOU-HÊNG,

*President of Board of Punishments.*

Done at Peking in quadruplicate (four copies in English and four in Chinese) the 1st day of July in the year of our Lord 1898, being the 13th day of the 5th moon of the 24th year of Kuang-hsü.

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IDENTIC NOTES EXCHANGED BETWEEN THE UNITED KINGDOM AND RUSSIA  
WITH REGARD TO THEIR RESPECTIVE RAILWAY INTERESTS IN CHINA.<sup>1</sup>

*April 28, 1899.*

*Sir C. Scott to Count Mouravieff.*

The undersigned, British Ambassador, duly authorized to that effect, has the honour to make the following declaration to His Excellency Count Mouravieff, Russian Minister for Foreign Affairs.

Great Britain and Russia, animated by a sincere desire to avoid in China all cause of conflict, on questions where their interests meet, and taking into consideration the economic and geographical gravitation of certain parts of that Empire, have agreed as follows:—

1. Great Britain engages not to seek for her own account, or on behalf of British subjects or of others, any railway concessions to the north of the Great Wall of China, and not to obstruct, directly or indirectly, applications for railway concessions in that region supported by the Russian Government.

2. Russia, on her part, engages not to seek for her own account, or on behalf of Russian subjects or of others, any railway concessions in the basin of the Yangtze and not to obstruct, directly or indirectly, applications for railway concessions in that region supported by the British Government.

The two contracting parties, having nowise in view to infringe in any way the sovereign rights of China or existing treaties, will not fail to

<sup>1</sup> Rockhill, p. 183.

communicate to the Chinese Government the present arrangement, which, by averting all cause of complications between them, is of a nature to consolidate peace in the Far East, and to serve the primordial interests of China herself.

CHARLES S. SCOTT.

St. Petersburg, *April 28, 1898.*

*Sir C. Scott to Count Mouravieff.*

In order to complete the notes exchanged this day respecting the partition of spheres for concessions for the construction and working of railways in China, it has been agreed to record in the present additional note the agreement arrived at with regard to the line Shanhaikuan-Newchwang, for the construction of which a loan has been already contracted by the Chinese Government with the Shanghai-Hongkong Bank, acting on behalf of the British and Chinese Corporation.

The general arrangement established by the above-mentioned notes is not to infringe in any way the rights acquired under the said loan contract, and the Chinese Government may appoint both an English engineer and an European accountant to supervise the construction of the line in question, and the expenditure of the money appropriated to it.

But it remains understood that this fact cannot be taken as constituting a right of property or foreign control, and that the line in question is to remain a Chinese line, under the control of the Chinese Government, and cannot be mortgaged or alienated to a non-Chinese company.

As regards the branch line from Siaoheishan to Sinminting, in addition to the aforesaid restrictions, it has been agreed that it is to be constructed by China herself, who may permit European — not necessarily British — engineers to periodically inspect it, and to verify and certify that the work is being properly executed.

The present special agreement is naturally not to interfere in any way with the right of the Russian Government to support, if it thinks fit, applications of Russian subjects or establishments for concessions for railways, which, starting from the main Manchurian line in a south-westerly direction, would traverse the region in which the Chinese line terminating at Sinminting and Newchwang is to be constructed.

CHARLES S. SCOTT.<sup>2</sup>

St. Petersburg, *April 28, 1899.*

<sup>2</sup> The same, *mutatis mutandis*, was sent the same day by Count Mouravieff, Minister of Foreign Affairs of Russia, to Sir Charles Scott.

JOINT NOTE SIGNED BY THE DIPLOMATIC REPRESENTATIVES AT PEKING OF GERMANY, AUSTRIA-HUNGARY, BELGIUM, SPAIN, THE UNITED STATES, FRANCE, GREAT BRITAIN, ITALY, JAPAN, THE NETHERLANDS, AND RUSSIA, EMBODYING CONDITIONS FOR REESTABLISHMENT OF NORMAL RELATIONS WITH CHINA.<sup>1</sup>

*Signed at Peking December 22, 1900; Handed to the Chinese Plenipotentiaries, Yi K'uang (Prince Ch'ing) and Li Hung-chang, on December 24, 1900.*

[TRANSLATION FROM FRENCH.]

During the months of May, June, July, and August of the present year serious disturbances broke out in the northern provinces of China and crimes unprecedented in human history — crimes against the law of nations, against the laws of humanity, and against civilization — were committed under peculiarly odious circumstances. The principal of these crimes were the following;

1. On the 20th of June His Excellency Baron von Ketteler, German Minister, proceeding to the Tsungli Yamen, was murdered while in the exercise of his official duties by soldiers of the regular army, acting under orders of their chiefs.

2. The same day the foreign legations were attacked and besieged. These attacks continued without intermission until the 14th of August, on which date the arrival of foreign troops put an end to them. These attacks were made by regular troops, who joined the Boxers, and who obeyed orders of the Court, emanating from the Imperial Palace. At the same time the Chinese Government officially declared by its representatives abroad that it guaranteed the security of the legations.

3. The 11th of June Mr. Sugiyama, Chancellor of the Legation of Japan, in the discharge of an official mission, was killed by regulars at the gates of the city. At Peking and in several provinces foreigners were murdered, tortured, or attacked by Boxers and regular troops, and only owed their safety to their determined resistance. Their establishments were pillaged and destroyed.

4. Foreign cemeteries, at Peking, especially, were desecrated, the graves opened, the remains scattered abroad. These events led the foreign powers to send their troops to China in order to protect the lives of their representatives and their nationals, and to restore order. During their

<sup>1</sup> Rockhill, p. 63.

march to Peking the allied forces met with the resistance of the Chinese armies and had to overcome it by force. China having recognized her responsibility, expressed her regrets, and manifested the desire to see an end put to the situation created by the disturbances referred to, the powers have decided to accede to her request on the irrevocable conditions enumerated below, which they deem indispensable to expiate the crimes committed and to prevent their recurrence:

1. (a) Dispatch to Berlin of an extraordinary mission, headed by an Imperial Prince, to express the regrets of His Majesty the Emperor of China, and of the Chinese Government, for the murder of His Excellency the late Baron von Ketteler, German Minister.

(b) Erection on the place where the murder was committed of a commemorative monument suitable to the rank of the deceased, bearing an inscription in the Latin, German, and Chinese languages, expressing the regrets of the Emperor of China for the murder.

2. (a) The severest punishment in proportion to their crimes for the persons designated in the Imperial decree of September 25, 1900, and for those whom the representatives of the powers shall subsequently designate.

(b) Suspension of all official examinations for five years in all the towns where foreigners have been massacred, or have been subjected to cruel treatment.

3. Honorable reparation shall be made by the Chinese Government to the Japanese Government for the murder of Mr. Sugiyama, Chancellor of the Japanese Legation.

4. An expiatory monument shall be erected by the Imperial Chinese Government in each of the foreign or international cemeteries which have been desecrated and in which the graves have been destroyed.

5. Maintenance, under conditions to be settled between the powers, of the prohibition of the importation of arms as well as of material used exclusively for the manufacturing of arms and ammunition.

6. Equitable indemnities for governments, societies, companies, and private individuals, as well as for Chinese who have suffered during the late events in person or in property in consequence of their being in the service of foreigners. China shall adopt financial measures acceptable to the powers for the purpose of guaranteeing the payment of said indemnities and the interest and amortization of the loans.

7. Right for each power to maintain a permanent guard for its legation and to put the legation quarter in a defensible condition. Chinese shall not have the right to reside in this quarter.



8. The Taku and other forts, which might impede free communication between Peking and the sea, shall be razed.

9. Right of military occupation of certain points, to be determined by an understanding between the powers, for keeping open communication between the capital and the sea.

10. (a) The Chinese Government shall cause to be published during two years in all subprefectures an Imperial decree embodying:

Perpetual prohibition, under pain of death, of membership in any antiforeign society;

Enumeration of the punishments which shall have been inflicted on the guilty, together with the suspension of all official examinations in the towns where foreigners have been murdered or have been subjected to cruel treatment.

(b) An Imperial decree shall be issued and published everywhere in the Empire declaring that all governors-general, governors, and provincial or local officials shall be responsible for order in their respective jurisdictions, and that whenever fresh antiforeign disturbances or any other treaty infractions occur, which are not forthwith suppressed and the guilty persons punished, they, the said officials, shall be immediately removed and forever prohibited from holding any office or honors.

11. The Chinese Government will undertake to negotiate the amendments to the treaties of commerce and navigation considered useful by the powers, and upon other subjects connected with commercial relations, with the object of facilitating them.

12. The Chinese Government shall undertake to reform the Office of Foreign Affairs and to modify the court ceremonial relative to the reception of foreign representatives in the manner which the powers shall indicate.

Until the Chinese Government have complied with the above to the satisfaction of the powers, the undersigned can hold out no expectation that the occupation of Peking and the province of Chihli by the general forces can be brought to a conclusion.

Peking, December 22, 1900.

For Germany,

A. MÜMM.

For Austria-Hungary,

M. CZIKANN.

For Belgium,

JOOSTENS.

For Spain,

B. J. DE COLOGAN.

For United States of America,

E. H. CONGER.

For France,

S. PICHON.

For Great Britain,	ERNEST SATOW.
For Italy,	SALVAGO RAGGI.
For Japan,	T. NISSI.
For Netherlands,	F. M. KNOBEL.
For Russia,	MICHEL DE GIEERS.

*Peking, January 16, 1901.*

Under date of December 24, 1900, the Plenipotentiaries of Germany, Austria-Hungary, Belgium, Spain, the United States, France, Great Britain, Italy, Japan, the Netherlands, and Russia, have sent us the following note :

We hastened to transmit the full text of this note to His Majesty the Emperor who, having taken cognizance of it, rendered the following decree:

“We have taken cognizance of the whole of the telegram of Yi K’uang and Li Hung-chang. It behooves us to accept, in their entirety, the twelve articles which they have submitted to us.”

Consequently, we, Ch'ing, Prince of the first rank, Plenipotentiary, President of the Council of Foreign Affairs, and Li, Earl of the first rank, Su-yi, Plenipotentiary, Tutor to the Heir Apparent, Grand Secretary of the Wen-hua tien Throne Hall, Minister of Commerce, Superintendent of trade for the northern ports, Governor General of Chihli.

Declare that we accept in their entirety the twelve articles which we have been requested to insure the transmission of to His Majesty the Emperor.

In witness of which we have signed the present protocol and we transmit to the foreign plenipotentiaries a copy of the edict of His Majesty the Emperor, bearing the Imperial Seal.

It is understood that in case of disagreement, the French text shall be authoritative.

Peking, 16 January, 1901.

(Signed) YI K'UANG  
(PRINCE CH'ING).  
LI.

(L. S.)

Li.

<sup>1</sup> Rockhill, p. 66.

AGREEMENT BETWEEN RUSSIA AND CHINA WITH REGARD TO MANCHURIA.<sup>1</sup>

*Signed at Peking, March 26 (8th April), 1902.*

[TRANSLATION]

His Majesty the Emperor and Autocrat of All the Russias, and His Majesty the Emperor of China, with the object of re-establishing and confirming the relations of good neighborhood, which were disturbed by the rising in the Celestial Empire of the year 1900, have appointed their plenipotentiaries to come to an agreement on certain questions relating to Manchuria. These plenipotentiaries, furnished with full powers which were found to be in order, agreed as follows:—

Article 1. His Imperial Majesty the Emperor of Russia, desirous of giving fresh proof of his peaceable and friendly disposition towards His Majesty the Emperor of China, and overlooking the fact that attacks were first made from frontier posts in Manchuria on peaceable Russian settlements, agrees to the re-establishment of the authority of the Chinese Government in that region, which remains an integral part of the Chinese Empire, and restores to the Chinese Government the right to exercise therein governmental and administrative authority, as it existed previous to the occupation by Russian troops of that region.

Art. 2. In taking possession of the governmental and administrative authority in Manchuria, the Chinese Government confirms, both with regard to the period and with regard to all other articles, the obligation to observe strictly the stipulations of the contract concluded with the Russo-Chinese Bank on the 27th August, 1896, and in virtue of paragraph 5 of the above-mentioned contract, takes upon itself the obligation to use all means to protect the railway and the persons in its employ, and binds itself also to secure within the boundaries of Manchuria the safety of all Russian subjects in general and the undertakings established by them.

The Russian Government, in view of these obligations accepted by the Government of His Majesty the Emperor of China, agrees on its side, provided that no disturbances arise and that the action of other powers should not prevent it, to withdraw gradually all its forces from within the limits of Manchuria in the following manner:—

(a) Within six months from the signature of the agreement, to clear the southwestern portion of the Province of Mukden up to the River Liao ho of Russian troops, and to hand the railways over to China.

<sup>1</sup> Rockhill, p. 99.

(b) Within further six months to clear the remainder of the Province of Mukden and the Province of Kirin of Imperial troops.

(c) Within the six months following to remove the remaining Imperial Russian troops from the Province of Hei-lung-chiang.

Art. 3. In view of the necessity of preventing in the future any recurrence of the disorders of last year, in which Chinese troops stationed on the Manchurian frontier also took part, the Imperial Russian and Chinese Governments shall undertake to instruct the Russian military authorities and the Tsiang-tsungs, mutually to come to an agreement respecting the numbers and the disposition of the Chinese forces until the Russian forces shall have been withdrawn. At the same time the Chinese Government binds itself to organize no other forces over and above those decided upon by the Russian military authorities and the Tsiang-Tsungs as sufficient to suppress brigandage and pacify the country.

After the complete evacuation of Manchuria by Russian troops, the Chinese Government shall have the right to increase or diminish the number of its troops in Manchuria, but of this must duly notify the Russian Government, as it is natural that the maintenance in the above-mentioned district of an over large number of troops must necessarily lead to a reinforcement of the Russian military force in the neighbouring districts, and thus would bring about an increase of expenditure on military requirements undesirable for both states.

For police service and the maintenance of internal order in the districts outside those parts allotted to the Eastern Chinese Railway Company, a police guard, under the local governors ("Tsiang-Tsungs"), consisting of cavalry and infantry, shall be organized exclusively of subjects of his Majesty the Emperor of China.

Art. 4. The Russian Government agrees to restore to the owners the railway Shanhaikwan-Newchwang-Sinminting, which, since the end of September, 1900, has been occupied and guarded by Russian troops. In view of this, the Government of His Majesty the Emperor of China binds itself:—

1. In case protection of the above-mentioned line should be necessary, that obligation shall fall exclusively on the Chinese Government, which shall not invite other powers to participate in its protection, construction, or working, nor allow other powers to occupy the territory evacuated by the Russians.

2. The completion and working of the above-mentioned line shall be conducted in strict accordance with the agreement between Russia and England of the 16th April, 1899, and the agreement with the private corporation respecting the loan for the construction of the line. And furthermore, the corporation shall observe its obligations not to enter into possession of or in any way to administer the Shanhaikwan-Newchwang-Sinminting line.

3. Should, in the course of time, extensions of the line in southern Manchuria, or construction of branch lines in connection with it, or the erection of a bridge in Newchwang, or the moving of the terminus there, be undertaken, these questions shall first form the subject of mutual discussion between the Russian and Chinese Governments.

4. In view of the fact that the expenses incurred by the Russian Government for the repair and working of the Shanhaikwan-Newchwang-Sinminting line were not included in the sum total of damages, the Chinese Government shall be bound to pay back the sum which, after examination with the Russian Government, shall be found to be due.

The stipulations of all former treaties between Russia and China which are not affected by the present agreement shall remain in force.

The agreement shall have legal force from the day of its signature by the plenipotentiaries of both states.

The exchange of ratifications shall take place in St. Petersburg within three months from the date of the signature of the agreement.

For the confirmation of the above, the plenipotentiaries of the two contracting powers have signed and sealed two copies of the agreement in the Russian, French, and Chinese languages. Of the three texts, which, after comparison, have been found to correspond with each other, that in the French language shall be considered as authoritative for the interpretation of the agreement.

Done in Peking in duplicate, the 26th March (8th April), 1902.

(Signed) M. PAUL LESSOR.

(Signed) YI K'UANG

(PRINCE CH'ING).

WANG WEN-SHAO.

TREATY AND ADDITIONAL AGREEMENT BETWEEN JAPAN AND CHINA  
RELATING TO MANCHURIA.<sup>1</sup>

*Signed at Peking, December 22, 1905; Ratifications exchanged at Peking,  
Jan. 23, 1906.*

His Majesty the Emperor of Japan and His Majesty the Emperor of China, desiring to adjust certain matters of common concern growing out of the Treaty of Peace between Japan and Russia of September 5th, 1905, have resolved to conclude a treaty with that object in view and have for that purpose named their plenipotentiaries, that is to say:

His Majesty the Emperor of Japan:

Baron Komura Jutaro, Jusammi, Grand Cordon of the Imperial Order of the Rising Sun, Minister for Foreign Affairs and Special Ambassador of his Majesty, and

Uchida Yasuya, Jushii, Second Class of the Imperial Order of the Rising Sun, His Majesty's Envoy Extraordinary and Minister Plenipotentiary; and

His Majesty the Emperor of China:

Prince Ching, Presiding Minister for Foreign Affairs, Councillor of State and Plenipotentiary of His Majesty,

Chu Hung-chi, Minister for Foreign Affairs, Councillor of State and Plenipotentiary of His Majesty, and

Yuan Shih-kai, Viceroy of the Province of Chihli, Junior Guardian of the Heir-Apparent, Minister Superintendent of Trade for the Northern Ports and Plenipotentiary of His Majesty;

Who, after having exchanged their full powers which were found to be in good and due form, have agreed upon and concluded the following Articles:

ARTICLE I.

The Imperial Chinese Government consent to all the transfers and assignments made by Russia to Japan by Articles V and VI of the Treaty of Peace above mentioned.

ARTICLE II.

The Imperial Japanese Government engage that in regard to the leased territory as well as in the matter of railway construction and exploitation, they will, so far as circumstances permit, conform to the

<sup>1</sup> Rockhill, Supplement 1904-1908, p. 131.

original agreements concluded between China and Russia. In case any question arises in the future on these subjects, the Japanese Government will decide it in consultation with the Chinese Government.

### ARTICLE III.

The present treaty shall come into full force from the date of signature. It shall be ratified by their Majesties the Emperor of Japan and the Emperor of China and the ratifications shall be exchanged at Peking as soon as possible, and not later than two months from the present date.

In witness whereof, the respective plenipotentiaries have signed this treaty in duplicate in the Japanese and Chinese languages and have thereto affixed their seals.

Done at Peking, this twenty-second day of the twelfth month of the thirty-eighth year of Meiji, corresponding to the twenty-sixth day of the eleventh moon of the thirty-first year of Kuang Hsü.

(Signed) BARON KOMURA JUTARO, [L. S.]

*Jusammi, Grand Cordon of the Imperial Order of the Rising Sun,  
Minister for Foreign Affairs and Special Ambassador of His Majesty  
the Emperor of Japan.*

(Signed) UCHIDA YASUYA, [L. S.]

*Jushii, Second Class of the Imperial Order of the Rising Sun, Envoy  
Extraordinary and Minister Plenipotentiary of His Majesty the  
Emperor of Japan.*

(Signed) PRINCE CHING, [L. S.]

*Presiding Minister for Foreign Affairs, Councillor of State and Pleni-  
potentiary of His Majesty the Emperor of China.*

(Signed) CHU HUNG-CHI, [L. S.]

*Minister for Foreign Affairs, Councillor of State and Plenipotentiary  
of His Majesty the Emperor of China.*

(Signed) YUAN SHIH-KAI, [L. S.]

*Viceroy of the Province of Chihli, Junior Guardian of the Heir-Ap-  
parent, Minister Superintendent of Trade for the Northern Ports  
and Plenipotentiary of His Majesty the Emperor of China.*

The Governments of Japan and China, with a view to regulate, for their guidance, certain questions in which they are both interested in Manchuria, in addition to those provided for in the treaty signed this day, have agreed as follows:

## ARTICLE I.

The Imperial Chinese Government agree that as soon as possible after the evacuation of Manchuria by the Japanese and Russian forces, the following cities and towns in Manchuria will be opened by China herself as places of international residence and trade:

In the Province of Shingking:

Fenghwangcheng; Liaoyang; Hsinmintun; Tiehling; Tungkiangtzu and Fakumen.

In the Province of Kirin:

Changchun (Kuançhengtzu); Kirin; Harbin; Ninguta; Hun-chun and Sanhsing.

In the Province of Heilungkiang:

Tgitsihar; Hailar; Aihun and Manchuli.<sup>1</sup>

## ARTICLE II.

In view of the earnest desire expressed by the Imperial Chinese Government to have the Japanese and Russian troops and railway guards in Manchuria withdrawn as soon as possible, and in order to meet this desire, the Imperial Japanese Government, in the event of Russia agreeing to the withdrawal of her railway guards, or in case other proper measures are agreed to between China and Russia, consent to take similar steps accordingly. When tranquility shall have been re-established in Manchuria and China shall have become herself capable of affording full protection to the lives and property of foreigners, Japan will withdraw her railway guards simultaneously with Russia.

## ARTICLE III.

The Imperial Japanese Government, immediately upon the withdrawal of their troops from any regions in Manchuria, shall notify the Imperial Chinese Government of the regions thus evacuated, and even within the period stipulated for the withdrawal of troops in the Additional Articles of the Treaty of Peace between Japan and Russia, the Chinese Government may send necessary troops to the evacuated regions of which they have been already notified as above mentioned,

<sup>1</sup> On Sept. 10, 1906, Tieh-ling, Tung-chiang-tzu and Fa-ku-men were declared open by China. On Oct. 8, 1906, Hsin-min-tun was opened; on Jan. 14, 1907, Chang-chun, Kirin, Harbin, and Tsitsihar. On June 28, 1907, Feng-huang cheng, Liao-yang, Ninguta, Hun-ch'un, Sanhsing, Hailar, and Aihun were opened.



for the purpose of maintaining order and tranquility in those regions. If, in the regions from which Japanese troops have not yet been withdrawn, any villages are disturbed or damaged by native bandits, the Chinese local authorities may also dispatch a suitable military force for the purpose of capturing or dispersing those bandits. Such troops, however, shall not proceed within twenty Chinese li from the boundary of the territory where Japanese troops are stationed.

#### ARTICLE IV.

The Imperial Government of Japan engage that Chinese public and private property in Manchuria, which they have occupied or expropriated on account of military necessity, shall be restored at the time the Japanese troops are withdrawn from Manchuria and that such property as is no longer required for military purposes shall be restored even before such withdrawal.

#### ARTICLE V.

The Imperial Chinese Government engage to take all necessary measures to protect fully and completely the grounds in Manchuria in which the tombs and monuments of the Japanese officers and soldiers who were killed in war are located.

#### ARTICLE VI.

The Imperial Chinese Government agree that Japan has the right to maintain and work the military railway line constructed between Antung and Mukden and to improve the said line so as to make it fit for the conveyance of commercial and industrial goods of all nations. The term for which such right is conceded is fifteen years from the date of the completion of the improvements above provided for. The work of such improvements is to be completed within two years, exclusive of a period of twelve months during which it will have to be delayed owing to the necessity of using the existing line for the withdrawal of troops. The term of the concession above mentioned is therefore to expire in the 49th year of Kuang Hsü. At the expiration of that term, the said railway shall be sold to China at a price to be determined by appraisement of all its properties by a foreign expert who will be selected by both parties. The conveyance by the railway of the troops and munitions of war of the Chinese Government prior to such sale shall be dealt with in accordance with the regulations of

the Eastern Chinese Railway. Regarding the manner in which the improvements of the railway are to be effected, it is agreed that the person undertaking the work on behalf of Japan shall consult with the commissioner dispatched for the purpose by China. The Chinese Government will also appoint a commissioner to look after the business relating to the railway as is provided in the agreement relating to the Eastern Chinese Railway. It is further agreed that detailed regulations shall be concluded regarding the tariffs for the carriage by the railway of the public and private goods of China.

#### ARTICLE VII.

The Governments of Japan and China, with a view to promote and facilitate intercourse and traffic, will conclude, as soon as possible, a separate convention for the regulation of connecting services between the railway lines in South Manchuria and all the other railway lines in China.

#### ARTICLE VIII.

The Imperial Chinese Government engage that all materials required for the railways in South Manchuria shall be exempt from all duties, taxes and likin.

#### ARTICLE IX.

The methods of laying out the Japanese settlement at Yingkou in the Province of Shingking, which has already been opened to trade, and at Antung and Mukden in the same province, which are still unopen although stipulated to be opened, shall be separately arranged and determined by officials of Japan and China.

#### ARTICLE X.

The Imperial Chinese Government agree that a joint-stock company of forestry composed of Japanese and Chinese capitalists shall be organized for the exploitation of the forests in the regions on the right bank of the River Yalu and that a detailed agreement shall be concluded in which the area and term of the concession as well as the organization of the company and all regulations concerning the joint work of exploitation shall be provided for. The Japanese and Chinese shareholders shall share equally in the profits of the undertaking.

ARTICLE III

The Governments of Japan and China agree that in all matters dealt with in the Treaty signed this day or in the present agreement the most advantageous treatment shall be mutually extended.

ARTICLE IV

The Governments of Japan and China agree that in all matters dealt with in the Treaty signed this day or in the present agreement the most advantageous treatment shall be mutually extended.

The present agreement shall take effect from the date of signature. When the Treaty signed this day is ratified, this agreement shall likewise be considered as ratified.

In witness whereof the undersigned, duly authorized by their respective Governments, have signed the present agreement in duplicate in the Japanese and Chinese languages and have thereto affixed their seals.

Done at Peking, this third day of the fifth month of the fifth year of Meiji, corresponding to the sixth day of the fifth month of the first year of Xiang Hsi.

Signed: BARON KIMURA GORO. [L.S.]

Japanese Second Officer of the Imperial Order of the Rising Sun, Minister for Foreign Affairs and Special Ambassador of His Majesty the Emperor of Japan.

Signed: TOSHIO FUSOTA. [L.S.]

Japanese Second Officer of the Imperial Order of the Rising Sun, Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of Japan.

Signed: PRINCE CHENG. [L.S.]

Presiding Minister for Foreign Affairs, Counsellor of State and Plenipotentiary of His Majesty the Emperor of China.

(Signed): CHEN HONG-CHU. [L.S.]

Minister for Foreign Affairs, Counsellor of State and Plenipotentiary of His Majesty the Emperor of China.

(Signed): YUAN SHIH-KAI. [L.S.]

Viceroy of the Province of Chihli, Junior Guardian of the Heir-Apparent, Minister Superintendent of Trade for the Northern Ports and Plenipotentiary of His Majesty the Emperor of China.

ARRANGEMENT BETWEEN FRANCE AND JAPAN CONCERNING THEIR  
POLICIES IN CHINA.<sup>1</sup>

*Signed at Paris, June 10, 1907.*

The Government of His Majesty the Emperor of Japan and the Government of the French Republic, animated by the desire to strengthen the relations of amity existing between them, and to remove from those relations all cause of misunderstanding for the future, have decided to conclude the following arrangement:

"The Governments of Japan and France, being agreed to respect the independence and integrity of China, as well as the principle of equal treatment in that country for the commerce and subjects or citizens of all nations, and having a special interest to have the order and pacific state of things preserved especially in the regions of the Chinese Empire adjacent to the territories where they have the rights of sovereignty, protection or occupation, engage to support each other for assuring the peace and security in those regions with a view to maintain the respective situation and the territorial rights of the two high contracting parties in the Continent of Asia."

In witness whereof, the undersigned: His Excellency Monsieur Kurino, Ambassador Extraordinary and Plenipotentiary of His Majesty the Emperor of Japan to the President of the French Republic, and His Excellency Monsieur Stephen Pichon, Senator, Minister for Foreign Affairs, authorized by their respective Governments, have signed this Arrangement and have affixed thereto their seals.

Done at Paris, the 10th of June, 1907.

[L. s.] S. KURINO.

[L. s.] S. PICHON.

*Declaration.*

The two Governments of Japan and France, while reserving the negotiations for the conclusion of a convention of commerce in regard to the relations between Japan and French Indo-China, agree as follows:

The treatment of the most favoured nation shall be accorded to the officers and subjects of Japan in French Indo-China in all that concerns their persons and the protection of their property, and the same treatment shall be applied to the subjects and protégés of French Indo-China in the Empire of Japan, until the expiration of the treaty of commerce

<sup>1</sup> Rockhill, Supplement 1904-1908, p. 30.

and navigation signed between Japan and France on the 4th of August, 1896.

Paris, the 10th of June, 1907.

[L. s.] S. KURINO.

[L. s.] S. PICHON.

CONVENTION OF COMMERCE AND NAVIGATION BETWEEN THE UNITED  
KINGDOM AND MONTENEGRO.<sup>1</sup>

*Signed at Cetinje, January 11, 1910; ratifications exchanged at Cetinje,  
June 21, 1910.*

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Royal Highness the Prince of Montenegro, being desirous of extending and facilitating still further the commercial relations between their respective countries, have resolved to conclude a convention of commerce and navigation, and have named as their plenipotentiaries for this purpose:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, Mr. Henry Beaumont, His Charge d'Affaires at Cetinje;

And His Royal Highness the Prince of Montenegro, His Excellency Dr. L. Tomanovitch, President of His Council of Ministers, His Minister for Foreign Affairs;

Who, having communicated to each other their full powers, found in good and due form, have agreed upon the following articles:—

ARTICLE 1.

The subjects and the produce of the soil and industry of each of the two high contracting parties shall enjoy reciprocally in the territory of the other the same treatment as that accorded to the subjects and produce of the soil and industry of the most favoured foreign nation. In particular this treatment shall be accorded in all matters concerning the establishment of the nationals of each of the high contracting parties in the territory of the other, and as regards the exercise of commerce or industries and the payment of taxes connected therewith; also in all matters of commerce and navigation both as regards importation, exportation, and transit, and, in general, in all that concerns customs duties and commercial operations.

<sup>1</sup> Great Britain, Treaty Series, No. 19, 1910.

## ARTICLE 2.

The stipulations of the present convention shall not be applicable to any of His Britannic Majesty's colonies, possessions, or protectorates beyond the seas, unless notice of accession shall have been given on behalf of any such colony, possession, or protectorate by His Britannic Majesty's representative at Cetinje before the expiration of one year from the date of the exchange of the ratifications of the present convention.

Nevertheless, the produce of the soil or industry of any of His Britannic Majesty's colonies, possessions, and protectorates shall enjoy in Montenegro complete and unconditional most-favoured-nation treatment, so long as such colony, possession, or protectorate, shall accord to the produce of the soil or industry of Montenegro treatment as favourable as that accorded to the produce of the soil or industry of any other foreign country.

## ARTICLE 3.

The present convention shall be ratified, and the ratifications shall be exchanged at Cetinje as soon as possible. It shall come into force immediately upon ratification, and shall be binding during ten years from the day of its coming into force. In case neither of the high contracting parties shall have given notice to the other, twelve months before the expiration of the said period of ten years of its intention to terminate it, it shall remain in force until the expiration of one year from the day on which either of the high contracting parties shall have denounced it.

As regards, however, the British colonies, possessions, and protectorates which may have acceded to the present convention in virtue of the provisions of Article 2, either of the high contracting parties shall have the right to terminate it separately at any time on giving twelve months' notice to that effect.

It is understood that the stipulations of the present and of the preceding article referring to British colonies, possessions, or protectorates apply also to the Island of Cyprus.

In witness whereof the respective plenipotentiaries have signed the present convention, and have affixed thereto their seals.

Done in duplicate at Cetinje the 20th December, 1900.  
11th January, 1910.

[L. S.] HENRY BEAUMONT.

[L. S.] DR. L. TOMANOVITCH.

CONVENTION WITH RESPECT TO THE INTERNATIONAL CIRCULATION OF  
MOTOR VEHICLES.<sup>1</sup>

*Signed at Paris, October 11, 1909.*

## [TRANSLATION]

The undersigned plenipotentiaries of the governments hereinafter specified, assembled in conference at Paris from the 5th to the 11th October, 1909, with a view of facilitating, as far as possible, the international circulation of motor vehicles, have concluded the following convention :

## ARTICLE 1.

*Conditions to be fulfilled by motor-cars in order to be allowed to be driven on the highway.*

Every motor-car, in order to be allowed to be driven on the highway, in a foreign country, must either have been recognized as suitable for use on the highway after an examination before the competent authority or before an association authorized by that authority, or must belong to a type approved in the same manner.

The examination must be directed specially to the following points :

(1) The machinery must be such as can be trusted to work efficiently, and must be so designed as to prevent, as far as possible, all danger of fire or explosion ; as not to frighten by its noise animals, whether ridden or driven ; and as not to give rise to any other cause of danger to traffic or seriously to inconvenience by the emission of smoke or vapor any persons using the road.

(2) The motor-car must be provided with the following :

(A) A strong steering apparatus, which will allow the car to be turned readily and with certainty.

(B) Two brakes, each independent of the other and adequate for its purpose. One at least of these brakes must be capable of acting rapidly and directly upon the wheels or upon brake-drums immovably fixed thereto.

(C) A mechanism which is capable of preventing even on steep gradients any backward movement, if one of the brakes is not of itself sufficient for the purpose.

Every motor-car whose weight unladen exceeds 350 kilogrammes must

<sup>1</sup> Great Britain, Treaty Series, No. 18, 1910.

be so constructed that the driver can, from his seat, reverse the movement of the car by means of the driving power.

(3) All the driving and steering apparatus must be so arranged that the driver can manipulate it with certainty and at the same time have a clear view of the road.

(4) Every motor-car must be provided with plates showing the name of the manufacturer of the chassis and the manufacturer's number, the horse-power of the engine or the number and bore of its cylinders, and also the weight of the car unladen.

#### ARTICLE 2.

##### *Conditions to be fulfilled by drivers of motor-cars.*

The driver of a motor-car must possess qualifications which provide a sufficient guarantee of public safety.

In so far as the driving of motor-cars in foreign countries is concerned, no one may drive a motor-car without having received for that purpose an authorization given by a competent authority or by an association authorized by that authority after having shown himself on examination to be competent.

Such an authorization must not be given to a person less than 18 years of age.

#### ARTICLE 3.

##### *Issue and recognition of international travelling passes.*

In order to secure as regards the driving of motor-cars in foreign countries that the conditions mentioned in Articles 1 and 2 are fulfilled, international travelling passes drawn up in the form and giving the particulars hereto annexed (Annexes A and B) shall be issued.

These passes shall be valid for one year from the date of issue. The manuscript entries therein shall always be written in Latin characters or in ordinary English handwriting.

International travelling passes issued by the authorities of one of the contracting states or issued by an association authorized by these authorities and countersigned by the authority, shall give full right to the driving of motor-cars in the countries of all the other contracting states, and shall be accepted as valid in these countries without a fresh examination of the motor-cars.

International travelling passes may be refused as not valid:

(1) If it is evident that the conditions under which they have been issued in accordance with the principles set out in Articles 1 and 2 are no longer fulfilled.



(2) If the nationality of the owner or the driver of the motor-car is not that of one of the contracting states.

#### ARTICLE 4.

##### *Arrangement of identification marks on motor-cars.*

No motor-car shall be allowed to pass from one country into another unless it carries, fixed in a visible position on the back of the car, in addition to the number plate of its own nationality, a distinctive plate displaying letters indicating that nationality. The size of this plate and the method and size of the lettering are prescribed in a note appended to the present convention (Annex C).

#### ARTICLE 5

##### *Warning Mechanisms.*

Every motor-car must be provided with a horn, sounding a deep note, to give warning. Beyond the limits of towns or villages it is permissible, in addition, to make use of such other warning mechanisms as are in conformity with the rules and customs of the country.

Every motor-car must, on the approach of dusk, be provided with two lamps in front and a light behind; the latter must be such as will make the symbols on the plates legible. The lamps must light up the road for a sufficient distance in front of the car, but the use of dazzling lights is in all instances prohibited in towns.

#### ARTICLE 6.

##### *Special provisions with regard to motor-cycles.*

The provisions of this convention apply to motor-tricycles and motor-bicycles, subject to the following modifications:

(1) The machinery intended to prevent a car from slipping backwards referred to in paragraph (C) of sub-division (2) of Article 1 is not required, nor is the reversing gear.

(2) The means of lighting need be no more than a single lamp, placed in front of the motor-tricycle or motor-bicycle.

(3) The distinctive nationality plate of motor-cycles shall measure only 18 centimetres in width and 12 centimetres in height. The letters shall measure 8 centimetres in height, the breadth of each line being 10 millimetres.

(4) The horn of motor-tricycles and motor-bicycles shall sound a high note.

## ARTICLE 7.

*Meeting and passing of vehicles.*

When meeting or passing other vehicles, drivers of motor-cars must conform strictly to the custom of the particular locality.

## ARTICLE 8.

*Provision of notice-boards on the highway.*

Each of the contracting states undertakes to see, within the limits of its authority, that no notices directing attention to dangerous places shall be put up on roads other than the notices of which the representation is given in an annex to this convention (Annex D).

Nevertheless, the governments of the contracting states may agree in common to modify this system of notices. There would be advantage in adding to this system of notices a notice directing attention to a custom-house and ordering a halt, and also another notice directing attention to a toll-house or an office for the collection of town dues.

The governments will also look to the observance of the following principles:

(1) That there is, as a general rule, no need for notice-boards directing attention to obstacles situated within towns or villages.

(2) That notice-boards should be placed about 250 metres from the point to which attention is to be directed, unless the local conditions are unsuitable. When the distance from the notice to the obstacle is very markedly more or less than 250 metres, special arrangements shall be made.

(3) The position of the notice-boards, in relation with the road, must be vertical.

## ARTICLE 9.

*General provisions.*

The driver of a motor-car, in a country shall conform to the laws and regulations concerning traffic on the highway that are in force in the said country.

An abstract of these laws and regulations may be presented to the motorist, on his entering a country, by the office at which he undergoes the customs examination.

## ARTICLE 10.

(a) The present convention shall be ratified and the deposit of the ratifications shall take place on the 1st day of March, 1910.

(b) The ratifications shall be deposited in the archives of the French Republic.

(c) The deposit of the ratifications shall be attested by a protocol signed by the representatives of the powers taking part therein and by the Minister for Foreign Affairs of the French Republic.

(d) The powers that shall not have been in a position to deposit their ratifications on the 1st day of March, 1910, may do so by a notification in writing, addressed to the Government of the French Republic, and accompanied by the instrument of ratification.

(e) A copy, certified as correct, of the protocol relating to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, and also of the instruments of ratification accompanying them, shall, by the good offices of the French Government, be forthwith transmitted through the diplomatic channel to the powers that have signed the present convention. In the instances contemplated in the preceding paragraph, the said government shall at the same time acquaint them with the date on which it received the notification.

## ARTICLE 11.

(a) The present convention rightfully applies as regards each contracting state to the mother country only.

(b) If a contracting state desires its application to its colonies, possessions, or protectorates, such state shall declare its intention expressly in the instrument of ratification itself, or by a special notification addressed in writing to the French Government, which shall be deposited in the archives of that government. If the declaring state selects the latter method of procedure, the said government shall immediately transmit to all the other contracting states a copy, certified as correct, of the notification, and shall indicate the date on which it received the notification.

## ARTICLE 12.

(a) Powers that have not signed the present convention may accede thereto.

(b) A power that desires to accede shall notify the French Government of its intention in writing, and shall transmit to it the act of accession, which shall be deposited in the archives of the said government.

(c) That government shall immediately transmit to all the other contracting powers a copy, certified as correct, of the notice and also of the act of accession, and shall indicate the date on which it received the notification.

ARTICLE 13.

The present convention shall come into force, as regards the powers that shall have taken part in the first deposit of ratifications, on the 1st day of May, 1910, and, as regards the powers that ratify it at a later date or that accede thereto, and also as regards colonies, possessions, or protectorates, not mentioned in the instruments of ratification, on the 1st day of May in the year following that in which the notifications referred to in article 10, paragraph (d); article 11, paragraph (b); and article 12, paragraph (b), shall have been received by the French Government.

ARTICLE 14.

In the event of one of the contracting powers wishing to denounce the present convention, such denunciation shall be notified in writing to the French Government, who shall immediately transmit a copy, certified as correct, of the notification to all the other powers, and shall acquaint them with the date on which it received the notification.

The denunciation shall affect the notifying power only, and shall take effect one year after the notification has been received by the French Government.

ARTICLE 15.

The states represented at the aforesaid conference may sign the present convention up to the 15th day of November, 1909.

Done at Paris, on the 11th day of October, 1909, in a single original, of which a correct copy shall be transmitted to each of the signatory governments.

For Great Britain:

(L. S.) FRANCIS BERTIE.

For Germany:

(L. S.) LANCKEN.

(L. S.) DAMMANN.

(L. S.) ECKARDT.

For Austria and for Hungary:

(L. S.) R. KHEVENHÜLLER,  
*Ambassadeur d'Autriche-Hongrie.*

## For Belgium:

- (L. S.) LAGASSE DE LOCHT.
- (L. S.) G. CAREZ.

## For Bulgaria:

- (L. S.) M. DE LA FARGUE.

## For Spain:

- (L. S.) F. DE ALBACETE.
- (L. S.) NORBERTO GONZALEZ AURIOLES.

## For France:

- (L. S.) FERNAND GAVARRY.
- (L. S.) WORMS DE ROMILLY.
- (L. S.) M. DELANNEY.
- (L. S.) WALCKENAER.
- (L. S.) HENNEQUIN.
- (L. S.) MAHIEU.
- (L. S.) DE DION.
- (L. S.) H. DEFERT.

## For Greece:

- (L. S.) N. P. DELYANNI.

## For Italy:

- (L. S.) ALOISI.
- (L. S.) POMPEO BODRERO.
- (L. S.) RUINI.

## For Monaco:

- (L. S.) E. GUGLIELMINETTI.

## For Montenegro:

- (L. S.) BRUNET.

## For the Netherlands:

- (L. S.) D. VAN ASBECK.

## For Portugal:

- (L. S.) JOAO VERISSIMO MENDES GUERREIRO.

## For Roumania:

- (L. S.) C. M. MITILINEU.

## For Russia:

- (L. S.) A. NÉLIDOW.

## For Servia:

- (L. S.) MIL. R. VESNITCH.

## ANNEX A.

## INTERNATIONAL CIRCULATION OF MOTOR-CARS.

*International Convention of* 1909.*International Travelling Pass ("Certificat international de Route").*

This pass is available in all countries which are parties to the International Convention<sup>1</sup> for one year only from the date of issue.

Issued at .....  
 Date .....



(To be signed here on behalf of the  
 authority or association issuing  
 the pass.)

## FRANCE.

*Particulars relating to the Motor-car.*

Owner of car { Surname .....  
                   { Christian or other name.....  
                   { Home address .....  
 Description of car (*e. g.*, motor-car, motor-cycle, &c.) .....  
 Name of manufacturer.....  
 Type of chassis.....  
 Number in the series of that type, or manufacturer's number.....  
 Engine { Number of cylinders.....  
           { Horse-power, or bore of cylinders (in millimetres).....  
 Body of car { Shape .....  
               { Color .....  
               { Number of seats.....  
 Weight of car unladen (in kilogrammes).....  
 Letters and numbers on the identification plates.....

<sup>1</sup> These countries are.....

*Particulars relating to the Driver or Drivers.*

Surname .....  
 Christian or other name.....  
 Place of birth .....  
 Date of birth.....  
 Home address .....

Surname .....  
 Christian or other name.....  
 Place of birth .....  
 Date of birth.....  
 Home address .....

KINGDOM OF \* \* \*

*Particulars relating to the Motor-car.*

Owner of car { Surname .....  
 { Christian or other name.....  
 { Home address .....  
 Description of car (*e. g.*, motor-car, motor-cycle, &c.).....  
 Name of manufacturer.....  
 Type of chassis.....  
 Number in the series of that type, or manufacturer's number.....  
 Engine { Number of cylinders.....  
 { Horse-power, or bore of cylinders (in millimetres).....  
 Body of car { Shape .....  
 { Color .....  
 { Number of seats.....  
 Weight of car unladen (in kilogrammes).....  
 Letters and numbers on the identification plates.....

*Particulars relating to the Driver or Drivers.*

Surname .....  
 Christian or other name.....  
 Place of birth .....  
 Date of birth.....  
 Home address .....

Surname .....  
 Christian or other name.....  
 Place of birth.....  
 Date of birth.....  
 Home address .....

Photograph.

Official  
seal.

KINGDOM OF \* \* \*

ENTRY OF CAR INTO	DEPARTURE OF CAR FROM
Port of entry.....	Port of departure.....
Date of entry.....	Date of departure.....
.....	.....
<i>Customs Officer.</i>	<i>Customs Officer.</i>
<div>Customs Stamp.</div>	<div>Customs Stamp.</div>

*Exclusion of a Driver.*

Mr. .... (give full  
 name) hereinbefore authorized by  
 the proper authority in .....  
 ..... (here insert  
 name of country) is disqualified  
 for driving the motor car in .....  
 ..... by reason of.....  
 .....

Official  
Seal.

Place .....  
 Date .....

(Signed) .....

*Admission of a new Driver.*

Place .....  
 Date .....  
 (Signed) .....

Photograph.

Official  
seal.

Surname .....  
 Christian or other name.....  
 Place of birth.....  
 Date of birth.....  
 Home address .....



*ANNEX B.*

The terms employed on the title-page, on the first inside sheet, and on the last sheet of the international travelling pass, as issued by one or another of the contracting states, shall be in the language prescribed by the laws of the aforesaid state. The terms employed on the other inside sheets, corresponding in number to the number of the other contracting states, shall in each instance be in the language of the state concerned.

The definitive translation of the particulars in the pass into the several languages shall be communicated to the Government of the French Republic by the other governments in so far as each of them is concerned.

*ANNEX C.*

The distinctive mark of the country of origin shall consist of an oval plate 30 centimetres in width and 18 centimetres in height, bearing one or two letters painted in black upon a white ground. The letters shall be formed of capital letters in Latin characters, and shall measure at least 10 centimetres in height, the breadth of each line being 15 millimetres. The distinctive letters for the different countries shall be the following:<sup>1</sup>

Germany, D; Austria, A; Belgium, B; Spain, E; United States of America, US; France, F; Great Britain and Ireland, GB; Greece, GR; Hungary, H; Italy, I; Montenegro, MN; Monaco, MC; the Netherlands, NL; Portugal, P; Russia, R; Roumania, RM; Servia, SB; Sweden, S; Switzerland, CH.

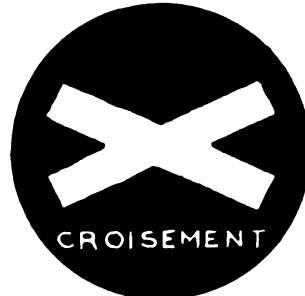
*ANNEX D.<sup>2</sup>**(Uneven road)**(Sharp turn)*

<sup>1</sup> In the case of Bulgaria, the letters BG have been adopted.

<sup>2</sup> Notices referred to in Article 8 of Convention.



(Level crossing)



(Cross roads)

*Protocol recording Deposit of the Ratifications of the International Convention with respect to the circulation of Motor Vehicles, signed at Paris, October 11, 1909.*

In execution of Article 10, § A of the International Convention with respect to the Circulation of Motor Vehicles, signed at Paris, the 11th October, 1909, the undersigned, representatives of the cosignatory powers, have assembled at the Ministry for Foreign Affairs in order to proceed to the deposit of the ratifications of the high contracting powers.

The instruments of ratification of His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; of His Majesty the German Emperor, King of Prussia; of His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; of His Majesty the King of Bulgaria; of His Majesty the King of Spain; of the President of the French Republic; of His Majesty the King of Italy; and of His Serene Highness the Prince of Monaco, have been produced, and, having been after examination found in good and due form, have been entrusted to the Government of the French Republic with a view to their deposit in the archives of the Ministry of Foreign Affairs.

The Governments of Belgium,<sup>1</sup> Greece, Montenegro, the Netherlands, Portugal, Roumania, Russia,<sup>1</sup> and Servia, have declared that they are

<sup>1</sup> The Belgian ratification was deposited April 30, 1910. The Russian ratification was deposited March 5, 1910. The signatory powers have agreed that the position of Belgium and Russia is assimilated to that of powers which deposited ratifications on March 1, 1910, and that the provisions of the first part of Article 13 therefore apply in the case of these countries.

not in a position this day to deposit their ratifications, and have requested to be allowed the faculty, reserved to them by paragraph D of Article 10, to fulfil this formality at a later date. .

The French Government will notify these successive deposits to the contracting powers.

Done at Paris, the 1st March, 1910, in a single original, of which a duly certified copy shall be communicated to each of the signatory governments.

(L. S.)	FRANCIS BERTIE.
(L. S.)	RADOLIN.
(L. S.)	R. KHEVENHÜLLER.
(L. S.)	STANCIOFF.
(L. S.)	F. DE LEON Y CASTILLO.
(L. S.)	S. PICHON.
(L. S.)	M. RUSPOLI.
(L. S.)	BALNY D'AVRICOURT.

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INTERNATIONAL CONVENTION RESPECTING THE PROHIBITION OF NIGHT  
WORK FOR WOMEN IN INDUSTRIAL EMPLOYMENT.<sup>1</sup>

*Signed at Berne, September 26, 1906.*

[TRANSLATION]

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the German Emperor, King of Prussia; His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary; His Majesty the King of the Belgians; His Majesty the King of Denmark; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of Italy; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; Her Majesty the Queen of the Netherlands; His Majesty the King of Portugal and the Algarves, etc.; His Majesty the King of Sweden; the Swiss Federal Council,

Being desirous of facilitating the development of the industrial protection of work people by the adoption of common provisions,

Have for this purpose resolved to conclude a convention respecting the night work of women in industrial employment, and have named the following as their plenipotentiaries, that is to say:

<sup>1</sup> Great Britain. Treaty Series, No. 21, 1910.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India:

Mr. Herbert Samuel, Member of Parliament, Parliamentary Under-Secretary of State for the Home Department,

Mr. Malcolm Delevingne, of the Home Office;

His Majesty the German Emperor, King of Prussia:

His Excellency M. Alfred de Bülow, His Chamberlain and Privy Councillor, Envoy Extraordinary and Minister Plenipotentiary at Berne,

M. Caspar, Director at the Imperial Ministry of the Interior,

M. Frick, "Conseiller intime supérieur de Gouvernement" and "Conseiller Rapporteur" at the Prussian Ministry of Commerce and Industry,

M. Eckardt, Councillor of Legation and "Conseiller Rapporteur" at the Imperial Ministry for Foreign Affairs;

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary:

For Austria and Hungary:

His Excellency Baron Heidler von Egeregg and Syrgenstein, His Privy Councillor, Envoy Extraordinary and Minister Plenipotentiary at Berne,

For Austria:

Dr. Franz Müller, Ministerial Councillor at the Imperial and Royal Ministry of Commerce,

For Hungary:

M. Nicolas Gerster, Chief Royal Inspector of Factories in Hungary;

His Majesty the King of the Belgians:

His Excellency M. Maurice Michotte de Welle, Envoy Extraordinary and Minister Plenipotentiary at Berne,

M. Jean Dubois, Director-General of the Department of Labour at the Ministry of Industry and Labour;

His Majesty the King of Denmark:

M. Henrik Vedel, Head of Department at the Ministry of the Interior;

His Majesty the King of Spain:

M. Bernardo Alméida y Herreros, Chargé d'Affaires at Berne;

The President of the French Republic:

His Excellency M. Paul Révoil, Ambassador at Berne,  
M. Arthur Fontaine, Director of the Labour Department of the  
Ministry of Commerce, Industry and Labour;

His Majesty the King of Italy:

His Excellency Count Roberto Magliano di Villar San Marco,  
Envoy Extraordinary and Minister Plenipotentiary at Berne,  
Professor Giovanni Montemartini, Director of the Labour Department of the Royal Ministry of Agriculture and Commerce;

His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau:  
M. Henri Neuman, Councillor of State;

Her Majesty the Queen of the Netherlands:

Count de Rechteren Limpurg Almelo, Her Chamberlain, Minister-Resident at Berne,

Dr. L. H. W. Regout, Member of the First Chamber of the States-General;

His Majesty the King of Portugal and the Algarves, etc.:

His Excellency M. Alberto d'Oliveira, Envoy Extraordinary and Minister Plenipotentiary at Berne;

His Majesty the King of Sweden:

M. Alfred de Lagerheim, late Minister for Foreign Affairs, Director and Head of the Royal College of Commerce;

The Swiss Federal Council:

M. Emile Frey, late Federal Councillor,

Dr. Franz Kaufmann, Head of the Industrial Section of the Federal Department of Commerce, Industry and Agriculture,

M. Adrien Lachenal, late Federal Councillor, Deputy to the Council of States,

M. Joseph Schobinger, National Councillor,

M. Henri Scherrer, National Councillor,

M. John Syz, President of the Swiss Association of Spinners, Weavers and Twisters,

Who, after having communicated to each other their full powers, found in good and due form, have successively discussed and adopted the following articles:

#### ARTICLE 1.

Night work in industrial employment shall be prohibited for all women without distinction of age, with the exceptions hereinafter provided for.

The present convention applies to all industrial undertakings in which more than ten men or women are employed: it does not in any case apply to undertakings in which only the members of the family are employed.

It is incumbent upon each contracting state to define the term "industrial undertakings." The definition shall in every case include mines and quarries and also industries in which articles are manufactured and materials transformed: as regards the latter the laws of each individual country shall define the line of division which separates industry from agriculture and commerce.

#### ARTICLE 2.

The night rest provided for in the preceding article shall be a period of at least eleven consecutive hours; within these eleven hours, whatever the legislation of each state may be, shall be comprised the interval between ten in the evening and five in the morning.

In those states, however, where the night work of adult women employed in industrial occupations is not as yet regulated, the period of uninterrupted rest may provisionally, and for a maximum period of three years, be limited to ten hours.

#### ARTICLE 3.

The prohibition of night work may be suspended:

1. In cases of "force majeure," when in any undertaking there occurs an interruption of work which it was impossible to foresee and which is not of a recurring character;

2. In cases where the work has to do with raw materials or materials in course of treatment which are subject to rapid deterioration, when such night work is necessary to preserve the said materials from certain loss.

#### ARTICLE 4.

In those industries which are influenced by the seasons, and in all undertakings in the case of exceptional circumstances demanding it, the period of the uninterrupted night rest may be reduced to ten hours on sixty days of the year.

#### ARTICLE 5.

It is incumbent upon each of the contracting states to take the administrative measures necessary to ensure the strict execution of the terms of the present convention within its own territory.

Each government shall communicate to the others through the diplomatic channel the laws and regulations which exist or shall hereafter come into force in their country with regard to the subject-matter of the present convention, as well as the periodical reports on the manner in which the said laws and regulations are applied.

#### ARTICLE 6.

The present convention shall only apply to a colony, possession or protectorate when a notification to this effect shall have been given on its behalf to the Swiss Federal Council by the government of the mother country.

Such government when notifying the accession of a colony, possession or protectorate shall have the power to declare that the convention shall not apply to such categories of native labour as it would be impossible to supervise.

#### ARTICLE 7.

In extra-European states, as well as in colonies, possessions or protectorates, when the climate or the condition of the native population shall require it, the period of the uninterrupted night rest may be shorter than the *minima* laid down in the present convention provided that compensatory rests are accorded during the day.

#### ARTICLE 8.<sup>1</sup>

The present convention shall be ratified and the ratifications deposited with the Swiss Federal Council by the 31st December, 1908, at the latest.

A protocol of such deposit shall be drawn up, of which a certified copy shall be transmitted to each of the contracting states through the diplomatic channel.

The present convention shall come into force two years after the date on which the protocol of deposit is closed.

The time-limit for the coming into operation of the present convention is extended from two to ten years in the case of:

1. Manufactories of raw sugar from beet;
2. Wool combing and weaving;
3. Open mining operations, when climatic conditions stop operations for at least four months every year.

<sup>1</sup> See note, p. 336.

## ARTICLE 9.

The states non-signatories to the present convention shall be allowed to declare their accession to it by an act addressed to the Swiss Federal Council, who shall bring it to the notice of each of the other contracting states.

## ARTICLE 10.

The time-limits laid down in Article 8 for the coming into force of the present convention shall be calculated in the case of non-signatory states, as well as of colonies, possessions, or protectorates, from the date of their accession.

## ARTICLE 11.

It shall not be possible for the signatory states, or the states, colonies, possessions, or protectorates who may subsequently accede, to denounce the present convention before the expiration of twelve years from the date on which the protocol of the deposit of ratifications is closed.

Thenceforward the convention may be denounced from year to year.

The denunciation shall only take effect after the lapse of one year from the time when written notice has been given to the Swiss Federal Council by the government concerned, or, in the case of a colony, possession, or protectorate, by the government of the mother-country. The Federal Council shall communicate the denunciation immediately to the governments of each of the other contracting states.

The denunciation shall only be operative as regards the state, colony, possession or protectorate on whose behalf it has been notified.

In witness whereof the plenipotentiaries have signed the present convention.

Done at Berne this twenty-sixth day of September, nineteen hundred and six, in a single original, which shall be deposited in the archives of the Swiss Confederation, and one copy of which, duly certified, shall be communicated to each of the contracting states through the diplomatic channel.

For Great Britain:

(L. S.) HERBERT SAMUEL.

(L. S.) MALCOLM DELEIVINGNE.

For Germany:

(L. S.) V. BULOW.

(L. S.) CASPAR.

(L. S.) FRICK.

(L. S.) ECKARDT.



For Austria and Hungary:

(L. S.) BARON FREDERICK-JOSEPH  
Minister of Agriculture-Hungary & Austria

For Canada:

(L. S.) McLELLAN

For France:

(L. S.) NICOLAS HENRI

For Belgium:

(L. S.) J. MICHELOT DE VERDEL

(L. S.) J. DUBOIS

For Denmark:

(L. S.) H. THOM

Subject to the reservation with regard to Article 1 made at the full sitting of the conference on the 25th September 1906:

For Spain:

(L. S.) BERNARDO ABRILLO Y HERRERO

For Greece:

(L. S.) REVOUL  
APOLLIS KONSTANTIS

For Italy:

(L. S.) R. MARILLANO  
(L. S.) G. MONTENAPOLONE

For Luxembourg:

H. VERNIER

For the Netherlands:

(L. S.) RECHTEREN  
L. H. W. BENOIT

For Portugal:

(L. S.) ALBERTO D'ALMEIDA

For Sweden:

(L. S.) ALFR. LAGERBERG

For Switzerland:

(L. S.) EMILE FRY  
F. KUTZMANN  
A. LACHENAL  
SCHOBINGER  
H. SCHERRER  
JOHN SYZ

to the effect that Denmark would not be bound by the term fixed for ratification.

## ANNEX.

## RESOLUTION.

At the moment of proceeding to the signature of the convention respecting the night work of women, the delegates of Great Britain, Denmark, Spain, France, Italy, Luxemburg, the Netherlands, Portugal, Sweden and Switzerland, convinced of the utility of assuring the greatest possible uniformity in the regulations to be issued in conformity with the present convention, express the desire that any doubt which may remain as regards the various questions connected with the said convention may be submitted by one or several of the contracting parties to the consideration of a commission on which each co-signatory state would be represented by a delegate or by a delegate and assistant-delegates.

This commission would have a purely consultative character. In no circumstances would it be able to undertake any enquiry into or to interfere in any way in the administrative or other acts of the states concerned.

The commission would make a report, which would be communicated to the contracting states, on the questions submitted to it.

The commission could further be called upon:

1. To give its opinion as to the equivalent provisions, on condition of which the accession of extra-European states, as well as of possessions, colonies, protectorates, might be accepted, in cases where the climate or the condition of the natives may necessitate modifications in the details of the convention;

2. Without prejudice to the initiative of each contracting state, to serve as an instrument for a preliminary exchange of views, in cases where the high contracting parties are in agreement as to the utility of convening new conferences on the subject of the condition of the working classes.

The commission would meet at the request of one of the contracting states, but not more than once a year, save in the case of an agreement between the contracting states for a supplementary meeting owing to exceptional circumstances. It would meet successively in each of the capitals of the European contracting states in alphabetical order.

It would be understood that the contracting states would reserve to themselves the right of submitting to arbitration, in conformity with Article 16 of the Hague Convention, the questions which may be raised by the convention of to-day's date, even if they had been the subject of an expression of opinion by the commission.

The afore-mentioned delegates request the Swiss Government (who agree) to be good enough, until the protocol of the deposit of ratifications of the convention has been closed, to continue negotiations for the adhesion to the present resolution of states whose delegates have not signed it.

This resolution shall be converted into a convention by the contracting states, through the agency of the Swiss Government, as soon as it shall have received the concurrence of all the states signatories to the convention.

Berne, September 26, 1906.

HERBERT SAMUEL.

MALCOLM DELEVINGNE.

H. VEDEL.

BERNARDO ALMÉIDA Y HERREROS.

RÉVOIL.

ARTHUR FONTAINE.

R. MAGLIANO.

G. MONTEMARTINI.

H. NEUMAN.

RECHTEREN.

L. H. W. REGOUT.

A. D'OLIVEIRA.

ALFR. LAGERHEIM.

E. FREY.

F. KAUFMANN.

A. LACHENAL.

SCHOBINGER.

H. SCHERRER.

JOHN SYZ.

NOTE: With regard to Article 8 of the convention providing for the deposit of ratifications by the 31st December, 1908, it has been agreed, as the result of correspondence between the states concerned, that the convention shall take effect on the 14th January, 1912, so far as regards those states which deposited their ratifications within the specified period, viz:

Great Britain, Austria and Hungary, Belgium, France, Germany, Luxemburg, Netherlands, Portugal, Switzerland, and also in the case of those which, not having so deposited ratifications, subsequently acceded, viz:

Italy and Sweden.

*ACCESSIONS.*

(Great Britain).....	Ceylon, Fiji, Gibraltar, Gold Coast, Leeward Islands, Dominion of New Zealand, Northern Nigeria, Trinidad, Uganda.	} January 14, 1910.
(France).....	Algeria, Tunis,	January 14, 1910. January 15, 1910.

In the case of the above accessions the convention will enter into effect, in accordance with Article 10, two years after the date of accession, as given above.

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TREATY OF AMITY, COMMERCE AND NAVIGATION, BETWEEN SWEDEN AND CHINA, SIGNED AT PEKING, JULY 2, 1908, WITH THE ADDITIONAL ARTICLE SIGNED AT PEKING MAY 24, 1909.

His Majesty the King of Sweden and His Majesty the Emperor of China, desiring to maintain firm, lasting and sincere friendship and to extend further the commercial relations between their respective countries, and having resolved to conclude a treaty of friendship, commerce and navigation, have for that purpose named as their plenipotentiaries, that is to say:

His Majesty the King of Sweden:

Gustaf Oscar Wallenberg, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at the Court of Peking, and

His Majesty the Emperor of China:

His Excellency Lien Fang, His Majesty's High Commissioner Plenipotentiary and Senior Vice-President of the Wai Wu Pu;

Who, having communicated to each other their respective full powers, and found them to be in good and due form, have agreed upon and concluded the following Articles:

## ARTICLE I.

There shall be, as there have always been, perpetual peace and friendship between His Majesty the King of Sweden and His Majesty the Emperor of China, and between their respective subjects, who shall enjoy equally in the respective countries of the high contracting parties full and entire protection of their persons and property.

## ARTICLE II.

It is agreed by the high contracting parties that His Majesty the King of Sweden may, if he see fit, accredit a diplomatic representative to the court of Peking, and His Majesty the Emperor of China may, if he see fit, accredit a diplomatic representative to the court of Stockholm.

The diplomatic representatives thus accredited shall enjoy all the prerogatives, privileges and immunities accorded by international usage to such representatives, and they shall also in all respects be entitled to the treatment extended to similar representatives of the most favored nation.

Their persons, families, suites, establishments, residences and correspondence shall be held inviolable. They shall be at liberty to select and appoint their own employés, couriers, interpreters, servants and attendants without any kind of molestation.

His Royal Swedish Majesty's representative shall be given audience of His Majesty the Emperor of China whenever necessary to present his letters of credence or any communication from the King of Sweden. His Imperial Chinese Majesty's representative shall be given audience of His Majesty the King of Sweden whenever necessary to present his letters of credence or any communication from the Emperor of China. The ceremonial adopted at the courts of the high contracting parties as regards the representatives above mentioned shall conform in all respects with the usages of nations of equal rank, without any loss of prestige on one side or the other.

The English text of all notes or despatches from Swedish officials, and the Chinese text of all notes or despatches from Chinese officials, shall be authoritative.

## ARTICLE III.

His Majesty the King of Sweden may appoint consuls-general, consuls, vice-consuls and consular agents to reside at such of the ports, cities and towns of China, which are now or may hereafter be opened to foreign residence and trade, as the interests of the Kingdom of Sweden may require.

His Majesty the Emperor of China may appoint consuls-general, consuls, vice-consuls and consular agents to reside at all places in Sweden where consular officers of other nations are now or may hereafter be allowed to reside, as the interests of the Empire of China may require.

The consuls and other officials of the high contracting parties shall treat each other with due respect, and they shall enjoy each in the other's country all the attributes, authority, privileges and immunities, which are or may hereafter be extended to similar officers of the most favored nation.

On the arrival of a consul, who has been duly appointed, at his post, it shall be the duty of the diplomatic representative to inform the Minister of Foreign Affairs, who shall in accordance with international usage forthwith issue the proper recognition of the said consul, without fee or charge. Such recognition, however, may be withdrawn, should it be found that the said consul has contravened international usage in the performance of his duties. At places where no consul is appointed as aforesaid, the consul of a friendly nation may be requested to perform the functions. At places where there is no consular representative the local authorities shall see that the subjects of the other contracting party enjoy the benefits of the present treaty.

#### ARTICLE IV.

Chinese subjects may proceed to and from any place in Sweden with their merchandise for purposes of trade. Swedish subjects may proceed to and from any place in China which is now or may hereafter be opened to foreign commerce, with their merchandise for purposes of trade. The subjects of the high contracting parties may in accordance with existing rules and with the privileges enjoyed by subjects of the most favored nation carry on trade, industries and manufactures or pursue any other lawful avocations at all the places above mentioned, rent or purchase houses for residence and for business purposes, rent or lease land, build houses, churches, cemeteries and hospitals, and take persons into their service and employ them in any lawful capacity without restraint or hindrance from the local authorities. They shall in all respects enjoy the same privileges and immunities as are now or may hereafter be granted by the high contracting parties to the subjects of the most favored nation.

## ARTICLE V.

The tariff and tariff rules now in force, or hereafter concluded, between China and the foreign powers shall be applicable to all articles imported into China by Swedish subjects or from Sweden, or exported from China by Swedish subjects or to Sweden. In no case shall the import or export duty thus paid be other or higher than the duty on similar articles which is paid by subjects of the most favored nation.

The tariff rules now in force, or hereafter concluded, between China and the foreign powers shall also be applicable to articles the importation and exportation of which is prohibited, and to duty free articles.

Articles duly imported into China by Swedish subjects, upon which import duty has been paid, and which it is desired to convey to an inland market and to clear of all transit duties by payment of a single commutation transit tax or duty; and articles for export purchased in China elsewhere than at an open port, upon which export duty has been paid, and which it is desired to clear of all transit duties by payment of a single commutation tax or duty; shall be treated according to the existing rule between China and the foreign powers. The transit tax or duty shall in no case exceed that which is paid by subjects of the most favored nation.

Goods transported from one treaty port to another, or temporarily stored in a bonded warehouse at a treaty port, or re-exported, by Swedish subjects, shall be subject to the general regulations now in force, or the new supplementary regulations which may hereafter be negotiated, between China and the foreign powers.

Chinese articles imported into Sweden, or articles of other nations imported into Sweden by Chinese subjects, shall pay an import duty no higher or other than that which is paid by the subjects of the most favored nation.

The Chinese authorities at the several open ports shall adopt such means as they may judge most proper to prevent the revenue suffering from fraud or smuggling.

## ARTICLE VI.

Swedish merchant vessels may proceed to all the treaty ports of China already opened or which may hereafter be opened, for the transportation of merchandise and for purposes of trade. They may also proceed to the inland waters in China which foreign merchant vessels are at liberty to navigate, and to the ports of call along the rivers for the purpose of

landing and shipping passengers and goods. In all these matters they shall be subject to the rules and regulations concluded by China with other foreign powers.

If a Swedish vessel should unlawfully enter ports other than open ports and ports of call in China, or carry on clandestine trade along the coast or rivers, the vessel with her cargo shall be subject to confiscation by the Chinese Government.

Chinese merchant vessels may proceed to and from any of the harbors in Sweden which other foreign merchant vessels are at liberty to frequent, for purposes of trade and for the shipping and landing of passengers and goods.

The merchant vessels of the high contracting parties shall enjoy most favored nation treatment in each others dominions.

Merchant vessels of the high contracting parties may hire boats in each other's ports for the conveyance of passengers and goods, and may engage the services of pilots for the purpose of entering or leaving port. They shall pay the tonnage dues or other fees or charges according to the existing regulations in the two countries, but they shall not be required to pay other or higher tonnage dues or fees or charges than the vessels of the most favored nation. Should a vessel of either of the high contracting parties be stranded or wrecked on the coast of the other, the local authorities shall immediately adopt measures for rescuing the passengers and crew and to give the most favored nation treatment. In the case of a vessel sustaining injury, or being compelled for other reason to seek a place of refuge, such vessel shall be permitted to enter any near port and to anchor there temporarily, without being subject to the payment of tonnage dues. The cargo, if landed in order to effect the necessary repairs to the vessel, but not for sale, shall not be liable to pay duties, provided that it remains under the supervision of the customs authorities.

#### ARTICLE VII.

The vessels of both the high contracting parties, which are at liberty to trade freely at open ports in time of peace, shall, in the event of either of the high contracting parties being at war with any foreign nation and for that reason excluding the vessels of that nation from her ports, be entitled none the less to continue to pursue their commerce in freedom and security, and to transport goods to and from the ports of the belligerent powers, full respect being paid to the neutrality of the flag in strict



compliance with the usages of neutrality, provided that the said neutral flag shall not protect vessels engaged in the transportation of troops, and that the said flag shall not be illegally used to enable the enemy's ships with their cargoes to enter the ports of the high contracting party concerned. Vessels offending against the above provisions shall be subject to confiscation by the government offended.

#### ARTICLE VIII.

The ships of war of either of the high contracting parties, provided previous notice has been given, shall be admitted into the ports of the other, where such vessels of other nations are allowed to enter, and shall receive the same treatment as ships of war of the most favored nation. They shall receive from the local authorities every facility for the purchase of coal and provisions, for procuring water, and if occasion requires, for the making of repairs.

Ships of war shall be exempt from the payment of all duties both on arrival and departure.

The commanders of ships of war shall hold intercourse with the superior officers of ports on terms of equality.

#### ARTICLE IX.

Swedish subjects may travel to all parts of the interior of China under passports issued by Swedish consuls and countersigned by the local authorities. These passports, if demanded, must be produced for examination in the localities passed through. If the passports be not irregular, the bearers will be allowed to proceed and they shall be at liberty to hire persons, animals, carts or vessels for their own conveyance or for the carriage of their personal effects or merchandise. If the Swedish subjects be without passports or if they commit any offence against the law, they shall be handed over to the nearest consul for punishment; but they shall only be subject to necessary restraint and in no case to ill usage. Such passports shall remain in force for a period of twelve months from the date of issue. Swedish subjects traveling in the interior without passports shall be liable to a fine not exceeding three hundred taels. They may, however, go without passports on excursions from any of the ports open to trade, to a distance not exceeding one hundred Chinese li and for a period not exceeding five days. The provisions of this Article do not apply to crews of ships.

Chinese subjects shall be at liberty to travel throughout the territory of Sweden, provided that they conduct themselves peaceably and no not violate the laws and regulations of the country.

#### ARTICLE X.

The duly authorized Swedish authorities shall hear and decide all cases brought against Swedish subjects by Swedish subjects, or by the subjects or citizens of any other foreign power, without the intervention of the Chinese authorities.

However, as China is now engaged in reforming her judicial system it is hereby agreed that as soon as all other treaty powers have agreed to relinquish their extra-territorial rights, Sweden will also be prepared to do so.

Charges or complaints of a civil nature brought by the subjects of either of the high contracting parties against the subjects of the other shall be heard and decided impartially by the authorities who have jurisdiction over the defendants, in accordance with the procedure observed in similar charges or complaints brought by subjects of the most favored nation.

Subjects of either of the high contracting parties charged with the commission of any crimes or offenses shall be tried by the authorities who have jurisdiction over the accused with the procedure observed in similar cases of the most favored nation, and, if found guilty, shall be punished in accordance with the laws of their own country.

#### ARTICLE XI.

If Swedish subjects in China, who have committed offenses or have failed to discharge debts and fraudulently abscond in order to evade a summons or warrant of arrest, should flee to the interior of China or take refuge in houses occupied by Chinese subjects or on board Chinese ships, the Chinese authorities shall, at the request of the Swedish consul, deliver them to the Swedish authorities.

In like manner, if Chinese subjects in China, who have committed offences or have failed to discharge debts and fraudulently abscond, should take refuge in houses occupied by Swedish subjects in China or on board Swedish ships in Chinese waters, they shall be delivered up at the request of the Chinese authorities made to the Swedish authorities.

Such offenders shall in no case be shielded or withheld from arrest by either of the high contracting parties.

## ARTICLE XII.

The principles of the Christian religion, as professed by the Protestant and Roman Catholic churches, are recognized as teaching men to do good and to do to others as they would have others to do to them. Those who quietly profess and teach these doctrines shall not be harassed or persecuted on account of their faith. Any person, whether Swedish subject or Chinese convert, who, according to these tenets, peaceably teaches and practices the principles of Christianity shall in no case be interfered with or molested therefor. No restrictions shall be placed on Chinese joining Christian churches. Converts and non-converts, being Chinese subjects, shall alike conform to the laws of China; and living together in peace and amity, shall pay due respect to those in authority. The fact of being a convert shall not protect a Chinese subject from the consequences of any offense he may have committed before or may commit after his admission into the church, or exempt him from paying legal taxes levied on Chinese subjects generally, except taxes and contributions levied for the support of religious customs and practices contrary to their faith. Missionaries shall not interfere with the exercise by the native authorities of their jurisdiction over Chinese subjects; nor shall the native authorities make any distinction between converts and non-converts, but shall administer the laws without partiality so that both classes may live together in peace.

Swedish missionary societies shall be permitted to rent and to lease in perpetuity, as the property of such societies, buildings or lands in all parts of the Empire for missionary purposes, and, after the title deeds have been found in order and duly stamped by the local authorities, to erect such suitable buildings as may be required for carrying on their good work.

## ARTICLE XIII.

It is hereby declared that the provisions of the treaty now existing between Sweden and China,<sup>1</sup> in so far as they are not modified by stipulations of the present treaty, shall continue in full force, and it is further expressly stipulated that the governments, officers and subjects of both of the high contracting parties shall be allowed free and full participation in all privileges, immunities, and advantages which have been or may hereafter be granted by either of the high contracting parties to the

<sup>1</sup> Treaty of peace, amity and commerce, Sweden and Norway and China, signed at Canton, March 20, 1847.

governments, officers and subjects of any other treaty power, in regard to commerce, navigation, shipping, industries or property.

The high contracting parties reserve to themselves the right to conclude agreements regarding frontier trade with neighboring countries, and it is understood that, in case either of the high contracting parties should hereafter grant to any other nation advantages subject to special conditions, the other high contracting party shall enjoy said advantages only provided it complies with the conditions imposed therein or their equivalent, to be mutually agreed upon.

#### ARTICLE XIV.

The agreements, rules and regulations subsisting between and binding both China and the treaty powers, so far as they are applicable and not inconsistent with the provisions of this treaty, shall be binding on both of the high contracting parties.

#### ARTICLE XV.

It is agreed that either of the high contracting parties may demand a revision of the articles of this treaty at the end of ten years from the date of the exchange of the ratifications; but if no such demand for the revision is expressed on either side within six months after the end of the first ten years, then the treaty in its present form shall remain in force for ten years more, reckoned from the end of the preceding ten years, and so it shall be at the end of each successive period of ten years.

#### ARTICLE XVI.

This treaty, shall on the exchange of ratifications by His Majesty the King of Sweden and by His Majesty the Emperor of China, be kept and sacredly guarded in the following manner, viz:

The original treaty as ratified by the Emperor of China shall be deposited at Stockholm, the capital of His Majesty the King of Sweden, in charge of the Ministry of Foreign Affairs; and as ratified by the King of Sweden shall be deposited at Peking, the capital of His Majesty the Emperor of China, in charge of the Wai-Wu-Pu.

The high contracting parties agree that immediately after the exchange of ratifications, the provisions of this treaty shall be published in order that the officials and people of the two countries may know and observe them.

## ARTICLE XVII.

The present treaty is signed in the Swedish, Chinese and English languages. In order, however, to prevent future discussions, the plenipotentiaries of the high contracting parties have agreed that in case of any divergence in the interpretation between the Swedish and Chinese text of the treaty, the difference shall be settled by reference to the English text.

The ratification of this treaty, under the hand of His Majesty the King of Sweden and of His Majesty the Emperor of China respectively, shall be exchanged at Peking within a year from the date of signature.

In token whereof the respective plenipotentiaries have signed and sealed this treaty — two copies in Swedish, two in Chinese and two in English.

Done at Peking, this second day of July in the year of Our Lord one thousand nine hundred and eight corresponding with the Chinese date the fourth day of the sixth moon of the thirty-fourth year of Kwang Hsu.

*(Signed)* G. O. WALLENBERG. LIEN FANG.

The following additional article which has to-day been concluded and signed by the undersigned Gustaf Oscar Wallenberg, His Swedish Majesty's Envoy Extraordinary and Minister Plenipotentiary at the Court of Peking, and by His Excellency Lien Fang v. President of the Wai-Wu-Pu, both being duly authorized thereto by their respective governments, shall form part and be appended to the treaty between Sweden and China which was signed and concluded at Peking on the 2nd of July 1908, corresponding with the Chinese date the fourth day of the sixth moon of the thirty-fourth year of Kwang Hsu.

## ADDITIONAL ARTICLE:

It is expressly agreed by the high contracting parties, that the provisions of Article IV of the present treaty shall in no respect whatever confer upon Swedish subjects in China or upon Chinese subjects in Sweden any privileges or immunities, other than those already granted or which may hereafter be granted to the subjects or citizens of the most favored nation.

Done at Peking, May twenty-fourth in the year of Our Lord one thousand nine hundred and nine corresponding with the Chinese date sixth day of the fourth moon of the first year of Hsuan Tung.

*(Signed)* G. O. WALLENBERG. LIEN FANG.

## PUBLIC RESOLUTION — No. 47.

[H. J. Res. 223.]

Joint Resolution to authorize the appointment of a commission in relation to universal peace.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission of five members be appointed by the President of the United States to consider the expediency of utilizing existing international agencies for the purpose of limiting the armaments of the nations of the world by international agreement, and of constituting the combined navies of the world an international force for the preservation of universal peace, and to consider and report upon any other means to diminish the expenditures of government for military purposes and to lessen the probabilities of war: Provided, That the total expense authorized by this Joint Resolution shall not exceed the sum of ten thousand dollars and that the said commission shall be required to make final report within two years from the date of the passage of this resolution.*

Approved, June 25, 1910.

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ARBITRATION CONVENTION BETWEEN THE UNITED STATES AND ECUADOR.<sup>1</sup>

*Signed at Washington, January 7, 1909; Ratified by the President, March 1, 1909; Proclaimed, June 23, 1910.*

The Government of the United States of America, signatory of the two conventions for the pacific settlement of international disputes, concluded at The Hague, respectively, on July 29, 1899, and October 18, 1907, and the Government of the Republic of Ecuador, adherent to the said convention of July 29, 1899, and signatory of the said convention of October 18, 1907;

Taking into consideration that by Article XIX of the convention of July 29, 1899, and by Article XL of the convention of October 18, 1907, the high contracting parties have reserved to themselves the right of concluding agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment;

Have authorized the undersigned to conclude the following convention:

<sup>1</sup> U. S. Treaty Series, No. 549.

## ARTICLE I.

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the convention of the 29th July, 1899, for the pacific settlement of international disputes, and maintained by The Hague Convention of the 18th October, 1907; provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two contracting states, and do not concern the interests of third parties.

## ARTICLE II.

In each individual case the high contracting parties, before appealing to the Permanent Court of Arbitration, shall conclude a special agreement, defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and on the part of Ecuador shall be subject to the procedure required by the Constitution and laws thereof.

## ARTICLE III.

The present convention is concluded for a period of five years and shall remain in force thereafter until one year's notice of termination shall be given by either party.

## ARTICLE IV.

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of Ecuador in accordance with the Constitution and laws thereof. The ratifications shall be exchanged at Washington as soon as possible, and the convention shall take effect on the date of the exchange of its ratifications.

Done in duplicate, in the English and Spanish languages, at Washington, this seventh day of January, in the year one thousand nine hundred and nine.

ELIHU ROOT [SEAL]  
L. F. CARBO [SEAL]

EXTRADITION TREATY BETWEEN THE UNITED STATES AND THE DOMINICAN REPUBLIC.<sup>1</sup>

*Signed at Santo Domingo, June 19, 1909; Ratified by the President, April 29, 1910; Proclaimed, August 26, 1910.*

The United States of America and the Dominican Republic, having judged it expedient, with a view to the better administration of justice and to the prevention of crimes within their respective territories and jurisdictions, that persons convicted of or charged with the crimes hereinafter specified, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude a convention for that purpose, and have appointed as their plenipotentiaries:

The President of the United States of America, Fenton R. McCreery, Minister Resident and Consul General of the United States of America, and the President of the Dominican Republic, Don Emilio Tejera Bonetti, Acting Secretary of State for Foreign Affairs of the Dominican Republic, who, after reciprocal communication of their full powers, found in good and due form, have agreed upon the following articles, to wit:

## ARTICLE I.

It is agreed that the Government of the United States and the Government of the Dominican Republic shall, upon mutual requisition duly made as herein provided, deliver up to justice any person who may be charged with, or may have been convicted of any of the crimes specified in article two of this convention committed within the jurisdiction of one of the contracting parties while said person was actually within such jurisdiction when the crime was committed, and who shall seek an asylum or shall be found within the territories of the other, provided that such surrender shall take place only upon such evidence of criminality, as according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offense had been there committed.

## ARTICLE II.

Persons shall be delivered up according to the provisions of this convention, who shall have been charged with or convicted of any of the following crimes:

<sup>1</sup> U. S. Treaty Series, No. 550.



1. Murder, comprehending the crimes designated by the terms of parricide, assassination, manslaughter, when voluntary, poisoning or infanticide.

2. The attempt to commit murder.

3. Rape, abortion, carnal knowledge of children under the age of twelve years.

4. Bigamy.

5. Arson.

6. Willful and unlawful destruction or obstruction of railroads, which endangers human life.

7. Crimes committed at sea :

(a) Piracy, as commonly known and defined by the laws of nations ;

(b) Wrongfully sinking or destroying a vessel at sea or attempting to do so ;

(c) Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the captain or commander of such vessel, or by fraud or violence taking possession of such vessel ;

(d) Assault on board ships upon the high seas with intent to do bodily harm.

8. Burglary, defined to be the act of breaking into and entering the house of another in the night time with intent to commit a felony therein ;

9. The act of breaking into and entering into the offices of the government and public authorities, or the offices of banks, banking houses, saving banks, trust companies, insurance companies, or other buildings not dwellings with intent to commit a felony therein.

10. Robbery, defined to be the act of feloniously and forcibly taking from the person of another, goods or money by violence or by putting him in fear.

11. Forgery or the utterance of forged papers.

12. The forgery or falsification of the official acts of the government or public authority, including courts of justice, or the uttering or fraudulent use of any of the same.

13. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, created by national, state, provincial, territorial, local or municipal governments, bank notes or other instruments of public credit, counterfeit seals, stamps, dies and marks of state or public administrations, and the utterance, circulation or fraudulent use of the above mentioned objects.

14. Embezzlement or criminal malversation committed within the jurisdiction of one or the other party by public officers or depositaries, where the amount embezzled exceeds two hundred dollars.

15. Embezzlement by any person or persons hired, salaried or employed, to the detriment of their employers or principals, when the crime or offence is punishable by imprisonment or other corporal punishment by the laws of both countries, and where the amount embezzled exceeds two hundred dollars.

16. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons, in order to exact money from them or their families, or for any other unlawful end.

17. Larceny, defined to be the theft of effects, personal property, or money of the value of twenty-five dollars or more.

18. Obtaining money, valuable securities or other property by false pretenses or receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained, where the amount of money or the value of the property so obtained or received exceeds two hundred dollars.

19. Perjury or subornation of perjury.

20. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director or officer of any company or corporation, or by any one in any fiduciary position, where the amount of money or the value of the property misappropriated exceeds two hundred dollars.

21. Crimes and offences against the laws of both countries for the suppression of slavery and slave trading.

22. The extradition is also to take place for participation in any of the aforesaid crimes as an accessory before or after the fact, provided such participation be punishable by imprisonment by the laws of both contracting parties.

### ARTICLE III.

The provisions of this convention shall not import claim of extradition for any crime or offence of a political character, nor for acts connected with such crimes or offences; and no persons surrendered by or to either of the contracting parties in virtue of this convention shall be tried or punished for a political crime or offence. When the offence charged comprises the act either of murder or assassination or of poisoning, either consummated or attempted, the fact that the

offence was committed or attempted against the life of the sovereign or head of a foreign state or against the life of any member of his family, shall not be deemed sufficient to sustain that such a crime or offence was of a political character, or was an act connected with crimes or offences of a political character.

#### ARTICLE IV.

No persons shall be tried for any crime or offence other than that for which he was surrendered.

#### ARTICLE V.

A fugitive criminal shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of the place within the jurisdiction of which the crime was committed, the criminal is exempt from prosecution or punishment for the offence for which the surrender is asked.

#### ARTICLE VI.

If a fugitive criminal whose surrender may be claimed pursuant to the stipulations hereof, be actually under prosecution, out on bail or in custody, for a crime or offence committed in the country where he has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be determined, and, until he shall have been set at liberty in due course of law.

#### ARTICLE VII.

If a fugitive criminal claimed by one of the parties hereto, shall be also claimed by one or more powers pursuant to treaty provisions, on account of crimes committed within their jurisdiction, such criminal shall be delivered to that state whose demand is first received.

#### ARTICLE VIII.

Under the stipulations of this convention, neither of the contracting parties shall be bound to deliver up its own citizens or subjects.

#### ARTICLE IX.

The expense of the arrest, detention, examination and transportation of the accused shall be paid by the government which has preferred the demand for extradition.

## ARTICLE X.

Everything found in the possession of the fugitive criminal at the time of his arrest, whether being the proceeds of the crime or offence, or which may be material as evidence in making proof of the crime, shall, so far as practicable, according to the laws of either of the contracting parties, be delivered up with his person at the time of the surrender. Nevertheless, the rights of a third party with regard to the articles aforesaid, shall be duly respected.

## ARTICLE XI.

The stipulations of this convention shall be applicable to all territory wherever situated, belonging to either of the contracting parties or in the occupancy and under the control of either of them, during such occupancy or control.

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the contracting parties. In the event of the absence of such agents from the country or its seat of government, or where extradition is sought from territory included in the preceding paragraph, other than the United States or the Dominican Republic, requisition may be made by superior consular officers.

It shall be competent for such diplomatic or superior consular officers to ask and obtain a mandate or preliminary warrant of arrest for the person whose surrender is sought, whereupon the judges and magistrates of the two governments shall respectively have power and authority, upon complaint made under oath, to issue a warrant for the apprehension of the person charged, in order that he or she may be brought before such judge or magistrate, that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of the fugitive.

If the fugitive criminal shall have been convicted of the crime for which his surrender is asked, a copy of the sentence of the court before which such conviction took place, duly authenticated, shall be produced. If, however, the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where

the crime was committed, and of the depositions upon which such warrant may have been issued, shall be produced with such other evidence or proof as may be deemed competent in the case.

#### ARTICLE XII.

If, when a person accused shall have been arrested in virtue of the mandate or preliminary warrant of arrest, issued by the competent authority as provided in Article XI hereof, and been brought, before a judge or magistrate to the end that the evidence of his or her guilt may be heard and examined as hereinbefore provided, it shall appear that the mandate or preliminary warrant of arrest has been issued in pursuance of a request or declaration received by telegraph from the government asking for the extradition, it shall be competent for the judge or magistrate at his discretion to hold the accused for a period not exceeding two months, so that the demanding government may have opportunity to lay before such judge or magistrate legal evidence of the guilt of the accused, and if, at the expiration of said period of two months, such legal evidence shall not have been produced before such judge or magistrate, the person arrested shall be released, provided that the examination of the charges preferred against such accused person shall not be actually going on.

#### ARTICLE XIII.

In every case of a request made by either of the two contracting parties for the arrest, detention or extradition of fugitive criminals, the legal officers or fiscal ministry of the country where the proceedings of extradition are had, shall assist the officers of the government demanding the extradition before the respective judges and magistrates, by every legal means within their or its power; and no claim whatever for compensation for any of the services so rendered shall be made against the government demanding the extradition, provided however, that any officer or officers of the surrendering government so giving assistance, who shall, in the usual course of their duty, receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

## ARTICLE XIV.

This convention shall take effect from the day of the exchange of the ratifications thereof; but either contracting party may at any time terminate the same on giving to the other six months notice of its intention to do so.

The ratifications of the present treaty shall be exchanged at the City of Santo Domingo as soon as possible.

In witness whereof, the respective plenipotentiaries have signed the above articles, and have hereunto affixed their seals.

Done, in duplicate, at the City of Santo Domingo, this nineteenth day of June, one thousand nine hundred and nine.

[SEAL]

FENTON R McCREERY

[SEAL]

E TEJERA BONETTI

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TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN DELIMITING  
THE BOUNDARY LINE IN PASSAMAQUODDY BAY.<sup>1</sup>

*Signed at Washington, May 21, 1910; Ratified by the President, July 13, 1910; Proclaimed, September 3, 1910.*

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being equally desirous of fixing and defining the location of the international boundary line between the United States and the Dominion of Canada in Passamaquoddy Bay and to the middle of Grand Manan Channel, and of removing all causes of dispute in connection therewith, have for that purpose resolved to conclude a treaty, and to that end have appointed as their plenipotentiaries:

The President of the United States of America, Philander C. Knox, Secretary of State of the United States; and

His Britannic Majesty, the Right Honorable James Bryce, O. M., his Ambassador Extraordinary and Plenipotentiary at Washington;

Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

<sup>1</sup> U. S. Treaty Series, No. 551.

## ARTICLE I.

WHEREAS, by Article I of the Treaty of April 11, 1908, between the United States and Great Britain, it was agreed that commissioners should be appointed for the purpose of more accurately defining and marking the international boundary line between the United States and the Dominion of Canada in the waters of Passamaquoddy Bay from the mouth of the St. Croix River to the Bay of Fundy, the description of the location of certain portions of such line being set forth in the aforesaid Article, and it was agreed with respect to the remaining portion of the line that—

each of the high contracting parties shall present to the other within six months after the ratification of this treaty a full printed statement of the evidence, with certified copies of original documents referred to therein which are in its possession, and the arguments upon which it bases its contentions, with a view to arriving at an adjustment of the location of this portion of the line in accordance with the true intent and meaning of the provisions relating thereto of the treaties of 1783 and 1814 between the United States and Great Britain, and the award of the commissioners appointed in that behalf under the Treaty of 1814; it being understood that any action by either or both governments or their representatives authorized in that behalf or by the local governments on either side of the line, whether prior or subsequent to such treaties and award, tending to aid in the interpretation thereof, shall be taken into consideration in determining their true intent and meaning;

And it was further agreed that if such agreement was reached between the parties the commissioners aforesaid should lay down and mark this portion of the boundary in accordance therewith and as provided in the said Article, but it was provided that in the event of a failure to agree within a set period, the location of such portion of the line should be determined by reference to arbitration;

AND WHEREAS, the time for reaching an agreement under the provisions of the aforesaid Article expired before such agreement was reached but the high contracting parties are nevertheless desirous of arriving at an adjustment of the location of this portion of the line by agreement without resort to arbitration, and have already, pursuant to the provisions above quoted of Article I of the treaty aforesaid, presented each to the other a full printed statement of the evidence

and of the arguments upon which the contentions of each are based, with a view to arriving at an adjustment of the location of the portion of the line referred to in accordance with the true intent and meaning of the provisions relating thereto in the treaties of 1783 and 1814 between the United States and Great Britain and the award of the commissioners appointed in that behalf under the Treaty of 1814;

Now, THEREFORE, upon the evidence and arguments so presented, and after taking into consideration all actions of the respective governments and of their representatives authorized in that behalf and of the local governments on either side of the line, whether prior or subsequent to such treaties and award, tending to aid in the interpretation thereof, the high contracting parties hereby agree that the location of the international boundary line between the United States and the Dominion of Canada from a point in Passamaquoddy Bay accurately defined in the treaty between the United States and Great Britain of April 11, 1908, as lying between Treat Island and Friar Head, and extending thence through Passamaquoddy Bay and to the middle of Grand Manan Channel, shall run in a series of seven connected straight lines for the distances and in the directions as follows:

Beginning at the aforesaid point lying between Treat Island and Friar Head, thence

(1) South  $8^{\circ} 29' 57''$  West true, for a distance of 1152.6 meters; thence

(2) South  $8^{\circ} 29' 34''$  East, 759.7 meters; thence

(3) South  $23^{\circ} 56' 25''$  East, 1156.4 meters; thence

(4) South  $0^{\circ} 23' 14''$  West, 1040.0 meters; thence

(5) South  $28^{\circ} 04' 26''$  East, 1607.2 meters; thence

(6) South  $81^{\circ} 48' 45''$  East, 2616.8 meters to a point on the line which runs approximately North  $40^{\circ}$  East true, and which joins Sail Rock, off West Quoddy Head Light, and the southernmost rock lying off the southeastern point of the southern extremity of Campobello Island; thence

(7) South  $47^{\circ}$  East 5100 meters to the middle of Grand Manan Channel.

The description of the last two portions of the line thus defined, viz., those numbered (6) and (7), is intended to replace the description of the lowest portion of the line, viz., that numbered (2), as defined in Article I of the treaty of April 11, 1908.



## ARTICLE II.

The location of the boundary line as defined in the foregoing Article shall be laid down and marked by the commissioners under Article I of the aforesaid treaty of April 11, 1908, in accordance with the provisions of such Article, and the line so defined and laid down shall be taken and deemed to be the international boundary extending between the points therein mentioned in Grand Manan Channel and Passamaquoddy Bay.

## ARTICLE III.

It is further agreed by the high contracting parties that on either side of the hereinabove described line southward from the point of its intersection with a line drawn true north from Lubec Channel Light, as at present established, either party shall have the right, upon two months' notice to the other, to improve and extend the channel to such depth as may by it be deemed desirable or necessary, and to a width not exceeding one hundred and fifteen (115) meters on each side of the boundary line, and from such point of intersection northerly through Lubec Narrows to the turning point in the boundary lying between Treat Island and Friar Head, either party shall have the right, upon two months' notice to the other, to improve and deepen the present channel to a width not exceeding sixty-five (65) meters on each side of the boundary line and to such depth as may by it be deemed desirable or necessary; it being understood, however, that each party shall also have the right to further widen and deepen the channel anywhere on its own side of the boundary.

## ARTICLE IV.

This treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged in Washington as soon as practicable.

IN FAITH WHEREOF, the respective Plenipotentiaries have signed this treaty in duplicate and have hereunto affixed their seals.

DONE at Washington the 21st day of May, in the year of our Lord one thousand nine hundred and ten.

P C KNOX [SEAL]  
JAMES BRYCE [SEAL]

REPORT TO THE THRONE OF THE IMPERIAL CHINESE COMMISSION ON  
CONSTITUTIONAL GOVERNMENT RECOMMENDING THE ABOLITION OF  
SLAVERY, TOGETHER WITH THE IMPERIAL RESCRIPT APPROVING THE  
REPORT AND TEN REGULATIONS FOR ITS ENFORCEMENT.

The Imperial Commission on Constitutional Government, after conference (with the Commission on Revision of the Code) respecting certain memorials proposing the abolition of slavery, respectfully submits this report recommending certain measures to be adopted for this purpose.

On the first day of the third moon of the XXXII year of Kuanghsü (March 25, 1906) Chou Fu, the Acting Viceroy of the Liang Kiang,<sup>1</sup> submitted to the Throne a memorial, praying that the practice of buying and selling human beings, an offense against the harmony of heaven and earth and incompatible with the progress of civilization, might be forbidden and suppressed, so as to promote the establishment of humane government.

The memorial was indorsed by the Vermillion Pencil as follows:

Let the Council of State and the Boards concerned jointly consider and report. A list of measures proposed by the Viceroy is forwarded with the memorial.

On the sixteenth day of the first moon of the I year of Hsüant'ung (February 6, 1909) Wu Wei-ping, the Censor of the Shensi Circuit, memorialized to the effect that the evil custom of buying and selling male and female slaves ought to be abolished, and prayed that a decree might be issued forbidding and suppressing it under severe penalties, so as to promote justice and further the introduction of constitutional government.

In response to this memorial an Imperial Edict was issued, saying, "Let the Commission on Constitutional Government take note."

The memorial of his excellency Chou Fu contains the following:

In the prosperous times of the Three Ancient Dynasties<sup>2</sup> the buying and selling of human beings was unknown, although criminals were punished by enslavement. It was during the decline of the Chou Dynasty that we first hear of men being sold. During the Ch'in and Han Dynasties<sup>3</sup> this practice became established; great cruelty was shown, and slaves came to be regarded as chat-

<sup>1</sup> The Liang Kiang Viceroyalty embraces three provinces of the Yangtze Valley: Kiangsu, Kiangsi and Anhui, and its capital is Nanking.

<sup>2</sup> I. e., the Hsia, the Shang and the Chou Dynasties from B. C. 2205 to B. C. 255.

<sup>3</sup> I. e., from B. C. 255 to A. D. 264.

tels and not as human beings. Their masters held the power of life and death over them. Our present Dynasty established statutes designed gradually to improve the condition of slaves, such as the law declaring slaves held upon unstamped deeds<sup>4</sup> to have the same status as hired laborers, and that providing for the punishment of any one who should kill a slave, guilty of some offense, instead of referring the matter to the courts. Numberless instances might be given of such manifestations of Imperial consideration. But so long as deeds for the purchase and sale of human beings are allowed to be executed it is useless to try to check the practice and little can be done to improve the situation. When the children of the poor are once sold into the hands of strangers they may be as oppressively used as dogs and horses and as harshly treated as imprisoned criminals. Alas! no door is opened in response to their cry. Death alone can release them from their bonds. One can not bear to speak of such barbarous cruelty. The various nations of Europe and America in recent times have steadily advanced in humanity, and are thoroughly convinced that their former rivalry in the slave trade was base and barbarous. Great Britain spent tens of millions of taels in freeing slaves throughout the whole empire. The United States of America issued a proclamation of emancipation, but it was not until after years of civil war that the slaves were actually set free. The report of her justice was spread abroad and other nations followed the example set. Our own Imperial Court is now engaged in reforming the government and revising the laws. Hundreds of reforms have been introduced but the one practice of buying and selling men remains, although of old it had no place and to-day the whole world regards it as wrong. Your minister humbly begs that Your Majesties, in keeping with the Imperial clemency, will abolish the institution of slavery and henceforth forever forbid any subject, whether Manchu or Chinese, official, soldier or commoner, to buy or sell human beings, and make all disobedience to such an edict punishable under the law, decreeing, furthermore, that all who now possess slaves shall be permitted to employ them as hired laborers only; that a term of years be fixed, that is to say that when the person concerned shall have reached the age of twenty-five years he or she shall be allowed to return home, and that if there be no home to which the servant can return, if a male, he be given his freedom, and, if a female servant, that her master be required to arrange a marriage for her, no money being given or received in exchange; that when concubines are taken there shall be a formal contract duly witnessed, and that there shall be free consent of both parties, that her relatives be permitted to visit her and that she, on her part, be required to keep the place and perform the duties of a concubine without overstepping the boundaries of her station.

Wu Wei-ping in his memorial states:

Heaven and earth have a heart of compassion for living creatures, and the ancient emperors and kings held humane regard for the people to be the foundation of good government. To-day we are about to establish a constitutional

<sup>4</sup> I. e., not stamped with the seal of the local official which gives legal force to a document.

regime throughout the Empire. The educated should be encouraged in the pursuit of culture and the lowly should be regarded with equal solicitude. It is inconsistent with good government that the poor and unfortunate, though innocent of crime, should be bought and sold and allowed to sink into the degradation of slavery, to be oppressed and cruelly ill treated and denied all human rights. An inspection of the records shows that the hereditary slaves of Huichou and Ningkuo<sup>5</sup> were emancipated in the reign of Chiach'ing, and that more recently the *To Ming*<sup>6</sup> of Chekiang have been granted the privileges of education and permitted to forsake their old callings and become citizens. The whole world unites in praising the goodness of such enactments. But as for male and female slaves, though they dwell among men, they are reckoned as outside the pale of humanity. Since, however, under a constitutional form of government there can be no discrimination, the Imperial bounty must be extended to all in order to be just. It becomes necessary therefore to request that the purchase of male and female slaves be forever forbidden, and that henceforth, any one, whether Marchu or Chinese, official, soldier or commoner, who is in need of laborers, be permitted only to hire them and not to buy them as slaves; that those who take concubines be allowed to do so only through the medium of a go-between and not by deeds of purchase; that those already in possession of slaves be required to treat them as hired laborers, and that when such servants commit crimes they be punished under the laws applicable to hired servants; and that all references in the fundamental laws and statutes to male and female slaves without exception be expunged. Thus, to some extent at least, the whole country being without servile classes, all will rejoice in this era of Imperial favor. It is requested that the Commission on Constitutional Government be commanded to join with the Commission on Revision of the Code in a consideration of these suggestions, together with those contained in the memorial of Chou Fu, and recommend satisfactory measures for whose enforcement they shall request the issue of an Imperial edict.

Your Majesty's ministers humbly represent that Chou Fu's memorial was formerly referred to the Council of State, and that before a report could be made upon it the Council was itself abolished. Now that Wu Wei-ping has presented his memorial and requested that it be considered in connection with that of Chou Fu the two memorials must naturally be dealt with together.

Your Ministers are of opinion that the essential thing in the establishment of constitutional government is the exercise of power by the people. If then men are bought and sold by their fellows and deprived of their liberty, looked upon as dogs and horses, such a condition is manifestly out of keeping with the Imperial proclamation of constitu-

<sup>5</sup> Two prefectures in the province of Anhui.

<sup>6</sup> Certain outcasts whose origin is obscure, believed to be descendants of rebels of the Twelfth Century A. D.

tional government and does not tend to make other nations regard the Imperial Government as a just one. The practice of buying and selling human beings, therefore, ought without any doubt whatever to be forbidden. When the matter is discussed, however, everybody is disturbed by the inconvenience which, it is feared, will result, and unless the subject is thoroughly investigated, it will be impossible to remove men's doubts or establish a principle of action. Inquiry shows that the difficulties in the way may be considered under several heads:

1. There is the inconvenience that will result in the households of the princes. The retainers, known as the *pao-i*, found in the palaces of the princes, have all along been allowed the privileges of competing at the examinations and of holding office, so that they are not to be classed as slaves in the ordinary sense. Besides these there are the hereditary servants, and, except in the case of those reduced to servitude in punishment for crimes, these, too, are not of the same status as those slaves who have been bought and sold. But, if the fundamental laws and the statutes are to be revised, then the servants in the households of the princes must also be taken into consideration. So far as they are concerned, the following statement may be made: The servants in the households of the princes, among whom there are many who have official rank, have never been looked upon as degraded to the condition of ordinary slaves. According to the code of the T'ang Dynasty, the status of such servants was in a general way like that of the underlings of the various Boards. The T'ang code made the killing of a slave a crime less by one degree than that of striking an underling of one of the Boards. A servant of this sort, therefore, was not originally considered to be in the same category as a slave. And now that we are revising the law, the principle to be observed is still the same. By this, however, we do not mean that old precedents are to be literally followed.

2. The inconvenience that will be occasioned in the households of Manchu and Mongol officials: We find upon examination that from the beginning of the present dynasty a half of the household slaves of the Bannermen, leaving aside those who have been bestowed by Imperial favor<sup>7</sup> and those who have surrendered themselves into slavery,<sup>8</sup> have

<sup>7</sup> Until the recent revision of the code, the penalty for certain grave offenses required that the near relatives of the criminal should be given as slaves to meritorious officials.

<sup>8</sup> Although the feudal system of China was abolished 225 B. C., the conquest of the Empire by the present Manchu Dynasty tended to revive it in the northern

been purchased upon written deeds, and therefore there are special statutes among those in force to-day which distinguish between those bought upon "red" (*i. e.*, stamped) deeds and those purchased upon "white" deeds (*i. e.*, not stamped with the official seal). Recently for several decades the custom of presenting slaves to meritorious officials has been discontinued, and for a long time there have been no reports of men surrendering themselves into slavery nor of slaves that have been bought under deeds of sale. The principal reasons for this have been that slaves easily escape and that it is expensive to support them. These two facts discouraged the use of slaves, and the necessary manual labor was mostly performed by hired servants. However, old and well-to-do families formerly bequeathed to their descendants the sons and grandsons of the household slaves, so that there was also no lack of these, who generation after generation were still unable to escape the slave lists. During the Han Dynasty male and female slaves of officials were emancipated and became free subjects, as the history of that period shows, and the *Liu Tien*<sup>9</sup> records that during the T'ang Dynasty slaves of official families were set free at seventy years of age. The ancient methods of emancipation are all easily examined, and one will discover from such examination that originally there was no such thing as hereditary slavery. Even in the statutes at present in force there is a section which provides that descendants of several generations of faithful slaves may, if they so desire, ransom themselves, and another which permits the emancipation of those who are descendants of successive generations of bondmen. As for the provisions with respect to presenting slaves to meritorious officials there is nothing in them to indicate that the descendants of such slaves were to be held in perpetual bondage. Yet the slaves of this class (*i. e.*, slaves of the bannermen) are descendants of those enslaved one and two centuries ago, unemancipated and unredeemed, inheriting from generations gone the status of slave. Their plight is pitiable indeed! Now that the Imperial Government is showing such great grace to all subjects of the Empire, and since there can never again be a slave register, this class (*i. e.*, slaves of Manchu and Mongol bannermen) cannot be left alone out in the cold, and, if it is not easy

provinces where large tracts of land and the peasant proprietors thereon were given to Manchu and Mongol nobles for military services rendered. Other peasant freeholders by a sort of "commendation" surrendered themselves and their lands to such nobles in order to secure protection.

<sup>9</sup> The Six Canons of the T'ang Dynasty.

to order the emancipation of all of them they may at least be uniformly regarded as hired laborers. Thus the relationship of master and servant will be retained. Such an arrangement will not be objectionable to the master and this class of slaves will be permitted to partake of the Imperial bounty which desires to regard all with equal kindness and secure for the slave an equal status with the common people. This reform would be a genuine emancipation.

3. The objections of those who keep female slaves.

The custom of buying male slaves has long since ceased, but, as for female slaves, not only are they maintained by official and wealthy families, both Manchu and Chinese, but among the well-to-do families of the middle class, there are none who do not possess them, the service of female slaves being generally regarded as more satisfactory than that of hired women. Such an old custom is difficult to suppress. If hiring should take the place of purchase and sale, it is feared that servants will refuse to obey orders, or that their relatives and friends, perhaps, will continually visit them and induce them to steal or run away. But do we not know that it is the purchased slave, whom one can not send away, who worries her master by disobedience and who is difficult to control? If a hired woman refuses to obey orders she can be dismissed and another engaged in her stead. There is nothing difficult about this. A slave girl runs away because she is a chattel and can not do as she likes. But if she be a hired woman she can plainly give notice and is not under the necessity of escaping by stealth. Thus we sometimes hear of a slave girl running away, but who ever heard of such a thing in the case of a hired servant? This is clear proof. Naturally among those who possess female slaves the humane treat them indulgently, and, if after a term of years they arrange marriages for them, either as wives or as concubines, they first obtain their consent. In such cases the evil practices associated with the use of male slaves are unknown. But, if the female slave should happen to have a cruel master, she may perhaps be illegally beaten, possibly, beaten to death, or she may lack for food and clothing and suffer from hunger and cold and all manner of ill treatment,—a condition inexpressibly pitiful. If, however, the purchase and sale of slaves be changed into a hiring of servants such evils will be greatly reduced and humane government will be realized.

The objections cited above therefore can not be considered as real objections.

Although there is a difference between slaves and hired servants under

the law, there are not a few sentences for crime which are identical for the two classes. Still for such serious offenses as assault and deliberate killing there is considerable difference in the severity of the sentences provided for the servant and the slave respectively. For striking or killing one's master the punishment of the slave is more severe than that of the hired servant. Yet even a hired servant who strikes and kills his employer in a quarrel is sentenced to immediate strangulation, and if it be a case of deliberately planned murder, he is punished by immediate decapitation, the sentence being specially intended to be more severe than in the case of a criminal who is an ordinary subject. Now that we are revising the code and lightening the penalties this distinction ought to be preserved so as to avoid treating such offenses too leniently. If the case be one in which a master ill treats his servant or his slave, the punishment of the master is more severe when the injured man is a hired servant than when he is a slave. If it be a case in which a male or female slave is deliberately killed by a master the punishment is only one year's banishment, while the killing of a hired servant by his master, even in a quarrel, is punished by banishment for the full term (i. e., three years), and if it be a case of deliberate murder the master is strangled, being condemned to give life for life. Should there be any apprehension on this account (that is fear of having the status of the slave raised to that of servant), do we not realize that the slave is also a human being? Can we tolerate arbitrary destruction of life? We are bound to respect the human being, and still more ought we to honor the right. We dare not simply because it is an old custom class men with brute beasts.

Recently the Imperial Government has published its intention to establish a constitutional regime, and has repeatedly issued Imperial decrees concerning it. No reform, therefore, which is intimately related to constitutional government must be allowed to wait until the last minute for realization. The buying and selling of human beings was long ago classed as wrong by western nations. The various statutes in our code referring to male and female slaves are due to the practice of buying and selling human beings. It follows, therefore, that if we do not at an early date forbid the practice, but wait until constitutional government is put into operation, there will be an appearance of incongruity. We, Your Majesty's ministers, after consulting together have concluded to request that the petitions contained in the memorials of the above-mentioned Viceroy and Censor may be granted; that is to say,



that the buying and selling of human beings may be prohibited by special edict, and that henceforth no one, whether Manchu or Chinese, official, soldier, or commoner, be permitted to engage in such traffic in human flesh, and that all disobedience to such edict be punished; furthermore that those who have heretofore possessed slaves be allowed merely to hire them as servants, that those who take concubines be permitted to take them only with due formality by the employment of a go-between, and that all persons heretofore considered as slaves, whether male or female, be treated as hired servants, having control of their own bodies; that, if they commit crimes, they be punished according to the provisions of the statutes for servants, which are by no means lenient in their penalties, and that all references in the code to male and female slaves be expunged.

This will proclaim abroad the Imperial benevolence and harmonize with the constitution of the state.

As to the regulations for dealing with the question, we have carefully considered those proposed by Chou Fu, and have drafted ten rules which are respectfully submitted in the accompanying enclosure, and for which we reverently pray the Imperial consideration. This reform, which will sweep away the accumulated abuses of thousands of years, will be a work which the distant past can not match, such as will move the hearts of the whole wide world and excite the attention of the entire globe. We pray that an Imperial edict may be issued making known the glorious tidings, and that every province be required to engrave it and to print it on yellow paper and post it far and wide that every one may have a knowledge of it. Your ministers being engaged at this very moment in the revision of the penal code must make careful examination and expunge, as suggested, all references in the laws and statutes to male and female slaves and amend the code so as to make it applicable to the new condition of affairs.

Your ministers, having examined the memorials referred to them, and having consulted together and taken into consideration all the circumstances of the situation, now, as in duty bound, reverently lay this memorial before Your Majesty.

The above memorial was drafted by the Commission on Constitutional Government and discussed in consultation with the Commission on Revision of the Code. Both commissions have joined in its presentation.

On the 21st day of the twelfth moon of the I year of Hsüant'ung (January 31, 1910) an Imperial rescript was issued as follows:—

“Let it be as proposed.”

“Respect this.”

*Ten Regulations for the Prohibition of the Purchase and Sale of Human Beings Respectfully Proposed and Reverently Submitted for the Imperial Approval.*

1. The laws relating to the purchase of human beings on written deeds should be entirely expunged from the code.

The law makes a distinction in the methods by which domestic female slaves may be purchased. A Bannerman may go to the captain of his corps and a Chinese to the local magistrate of his district and have his deed of purchase authenticated by the official seal. But, if willing to buy on an unstamped deed, he may suit his own convenience. In case of an offense committed by the slave, discrimination is made between the stamped and the unstamped deeds, in the sentence provided by the law. The traffic in human beings has not been conducted solely for the purpose of securing men and women for slaves, but also as a method of obtaining wives, concubines and male heirs. Now since all buying and selling of human beings is not to be allowed it becomes necessary to prohibit all such transactions, and we propose that henceforth the purchase and sale of human beings, whether as wives or concubines, sons or grandsons, or male and female slaves shall be forever forbidden, and that any violation of such law be made a punishable offense, the ancient statutes providing for the purchase of human beings on written deeds to be made null and void.

2. The punishment for the offense of buying and selling human beings should be determined.

Inspection shows that the fundamental law and the statutes respecting the sale of free persons who have been stolen, or for the sale of free people with their own consent, make satisfactory provision for the punishment of such offenses, but the buyer is not held guilty if he was not aware of the circumstances. There is also no provision in the fundamental law or the statute for him who, on account of poverty sells son or daughter, nor for the purchaser in such a case. But, since the purchase and sale of human beings is to be prohibited, these offenses, although light, must not be passed by. We propose, therefore, that henceforth, until the new code shall be published, the stealing and selling of a free person, or the selling of a free person with his own consent, shall be punished according to the provisions of the old law, and that, in the case of the sale of son or daughter on account of poverty, the seller shall be punished with seventy blows with the heavy bamboo, a

penalty one degree lighter than that provided for the selling of a son or grandson against his will, which is eighty blows with the heavy bamboo, and that the purchaser shall be punished with eighty blows of the heavy bamboo, that the money paid shall be confiscated, and the person sold returned to his or her relatives; we propose further that in cases of kidnapping and selling free persons, or selling free persons with their own consent, the purchaser, even though ignorant of the circumstances, shall receive the same punishment of eighty blows with the heavy bamboo, and that the provision of the law to the effect that the purchaser ignorant of the circumstances shall be guiltless be expunged.

3. The laws providing for the punishment of offenses committed by slaves should be amended.

The penalties provided by the fundamental law for the punishment of slaves who have committed offenses against their masters are very severe, and, now that the purchase of slaves is forbidden, and their status changed to that of hired servants, the name of slave can no longer be used. It therefore becomes impossible to apply the old laws. During the reign of K'anghsi<sup>10</sup> the slaves purchased by Bannermen upon unstamped deeds were considered as hired servants. If we follow this we shall not be without a precedent in determining the matter. We request, therefore, that hereafter the children of the poor, bound out to service under contract, together with those who have heretofore been slaves, shall all alike be considered hired servants, the name and distinction of master and servant being preserved, and that the existing provisions of the fundamental law and the statutes dealing with the relations of master and servant be applied in cases of offense, either against the master or against his relatives.

4. The children of the poor may be bound out as hired servants.

In years of famine, when the poor have no means of maintaining their children and they are perishing of hunger, when those who even in ordinary times are hard pressed, are unable to preserve themselves alive, if it be forbidden to buy and sell human beings and no other method is devised for meeting the emergency, the law can not be regarded as adequate. It is proposed that in addition to the ordinary methods of employing laborers, in which each suits his convenience and no period of years need be fixed, hereafter when the children of the poor are perishing of want, they may be hired out on contract for a period of years,

<sup>10</sup> A. D. 1662-1723.

and such payment for their services as may be agreed upon received in advance. At the time of making the contract, no matter whether male or female and irrespective of age, a limit shall be set upon the term of service, such limit being twenty-five years of age. The term of service may be made shorter but must not be made longer. For instance, if the child be ten years of age, he may not be bound for more than fifteen years; if nine years of age, he may not be bound for more than sixteen years, though he may be bound for a less period than this. At the expiration of the term of service he shall be permitted to return home. If there be no home to which the servant can return, if a man servant, he shall be free to follow his own will. The contract may be renewed by the year if both parties desire it. If the servant be a woman and there be no one at her mother's home, she shall be delivered to her nearest relative, who shall take her home with him and arrange a marriage for her. If there be no relative to receive her, the master must provide her with a husband, and shall not be allowed to receive any money for her. Such hired servants are not in the same category with male and female slaves sold under written deeds. The master must treat them as hired servants and must not oppress them. The servant must keep the place and perform the duties of servant and not disobey his master. If during the period of service the servant be unkindly treated, his family may return a proportionate amount of the money already received for his services and take him back home.

5. The statutes regarding the household slaves of the Bannermen should be revised.

The household slaves of the Bannermen are of various classes. Some are those who years ago were conferred by Imperial favor, others are of those who surrendered themselves into serfdom, and still others have been bought under deeds of sale. These household slaves are very numerous. The laws dealing with social classes contain provisions, both for the emancipation and the redemption of such slaves and their elevation to citizenship. It was not originally intended that they should be held in bondage from generation to generation, yet the descendants of those who did not redeem themselves, or who were not emancipated, are compelled to remain in service in the household of the master. If they commit offenses of which the sentence is life-long exile to penal servitude, they are sent to be slaves to the Manchu garrisons on the frontiers. If the offense be one punishable with a sentence of banishment for a term of years within the boundaries of the province, when

the sentence has expired, they are returned to their masters. It is not permitted to erase their names from the slave register of their banner. Should any of them by fraud have themselves enrolled as free subjects, they are held guilty of a violation of the law. We propose the following: for some time past, not only has the practice of bestowing slaves by Imperial favor been discontinued, but that of self-surrender into serfdom and that of purchasing slaves under written deed have both become rare. But those slaves who have not already redeemed themselves, and those who have not been emancipated by their masters, including farm bailiffs and the caretakers of the family cemeteries, have been, not for one generation alone, supported by their masters, and are therefore not in the same category with those who in their own persons have been bought under written deeds. If their master is willing to emancipate them, or permit them to ransom themselves, either course may be taken in accordance with the laws in force. But, if they have not already redeemed themselves nor been emancipated, and it should be proposed to fix an age limit of twenty-five years on attaining which they should be allowed their freedom, it is not certain that there would be entire willingness to let them go inasmuch as they are all engaged in agriculture and great embarrassment might result. Since it is now proposed that offenses committed by this class shall all be punished in accordance with the laws for hired laborers, and since the term of slave may no longer be used, it would seem unnecessary to fix an age limit for their services, and we propose that all household slaves of the Bannermen be considered hired servants, who, without fixing any age limit, may be allowed to ransom themselves or may be emancipated whenever their master is willing.

6. Some method should be proposed for freeing the hereditary slaves of the Chinese.

Female slaves of Chinese families are found in all the provinces, but male slaves are rare. Formerly in the XIV year of Chiach'ing (1809), in response to a memorial, the hereditary slaves in Anhui Province were set free, but it may be that in other provinces there are those who have inherited the slave status and who have not yet been emancipated. It becomes necessary, therefore, to decide upon some method of dealing with them. We propose that henceforth all inherited slaves belonging to Chinese families and the descendants of such slaves be set free. If they remain in the service of their masters they should be considered hired servants. Persons who have all along been hired servants

as well as those who may hereafter be classed as hired servants, whether male of female, no matter whether their masters be Manchu or Chinese, shall preserve the station and perform the duties of servants, and shall not overstep the boundaries of that station.

7. Those who have been female slaves must have a marriage arranged for them within a definite period.

The people who have bought female slaves under written deeds have, for the most part, bought them through brokers, and have no way of tracing such slaves' relatives. Perhaps the purchase occurred some years ago, and it may be that the girl has been taken a long way from her original home. If then orders be issued compelling her restoration to her relatives, the carrying out of these orders may be not only difficult but impossible. The present code provides that if a master shall not arrange a marriage for his female slave, but shall allow her to grow old unmated, he shall be beaten with a heavy bamboo for showing such disrespect to the law. It becomes necessary therefore to fix an age, before reaching which the maid servant shall be provided with a husband, and we propose that henceforth any maid servant who has formerly been a slave, and who on arriving at the age provided by law, i. e., twenty-five years, shall have no near relative to whom she may be returned, shall have a marriage arranged for her by her master, and that it shall be unlawful to give or receive any price in the transaction; any violation of this provision to be punished according to law.

8. Concubines shall be taken only through the medium of a go-between.

In western countries concubinage is not allowed, and recently Japan has followed the example of the West and enacted laws forbidding it. But in China the customs and the temper of the people differ from those of Japan and of the West, and it is not advisable to multiply prohibitions too rapidly. Heretofore custom has permitted the taking of a concubine, either through the services of a go-between or by purchase with money. It becomes necessary, then, to clearly determine a method which will bring the practice into accord with the purport of the new law. Inspection shows that according to the law of the T'ang Dynasty wife and concubine were alike taken with a marriage contract. It is proposed that henceforth he who may wish to take a concubine shall be required to engage the services of a go-between, but that he shall be permitted to use betrothal gifts only (i. e., not purchase money). The marriage contract must be made with the family of the woman, and the contract shall not be one of purchase and sale. The woman's

family should be permitted to visit her, thus showing proper regard for human feelings, but the station of concubine must be strictly preserved and no presumption on her part allowed.

9. The laws relating to marriage between the free-born and the slave should be expunged from the code.

Heretofore the laws defining the relationship of master and slave have been very strict, and in the list of crimes the marriage of the slave and free is mentioned as especially abhorrent. It cannot be maintained that the master is without responsibility in the matter, and therefore, if he is cognizant of the circumstances, he is made to share in the guilt. There are special statutes in the code which aim to guard against the loss of caste, great emphasis being laid upon the degradation of the free born to the condition of a slave or the fraudulent claim by the slave of a free-born status. For the free-born to take a place below the servile<sup>11</sup> is to confuse the distinctions between them, which is held to be like the meeting of the waters of the Ching and the Wei, which will not mingle, or like a failure to distinguish the East from the West. The preservation of correct social status is the very beginning of social order. But while the law is severe upon the marriage of the free and the slave, as a matter of fact in such things men are controlled rather by custom and their natural inclinations, and the law adds nothing to that which has become habitual. At present, having prohibited all buying and selling of human beings, the use of the term "slave" must henceforth forever be abandoned. All are alike commoners and it would seem ought not any more to be divided into classes. We propose therefore that this law be expunged, and that the marriage of any hired servant with a free person be no longer forbidden, such marriage being no concern of the master. Such a course will show some measure of respect for our common human nature. We propose further that all the statutes referring to quarrels between the slave and the free, and to illicit intercourse between them, as well as all distinctions between the free and the slave contained in the fundamental laws and statutes be entirely expunged.

10. The prohibition of the purchase of free persons for use as prostitutes or catamites should be strictly enforced.

Although male and female slaves constitute a menial class they nevertheless have a place in the ranks of human beings, but to descend to

<sup>11</sup> As in the case of a free woman who marries a slave.

prostitution, whether male or female, as a means of earning a livelihood is to sink beneath the vilest, to a depth of degradation from which there is no return to virtue. Therefore the statute provides that the buying of free girls for prostitution, or of free boys for use as catamites, shall be punished with the cangue and the full period of banishment. But while this law has been in existence for a long time, officials have looked upon it as a dead letter. The prosecution of persons who buy free girls for prostitution may perhaps be heard of now and then, but from years end to years end the records show no accusation of the buying of a free boy for use as a catamite, nor does one ever hear of an official who has taken up such a case. Unless severe orders are issued prohibiting these offenses and energetic action taken in carrying out the orders, we may find that while it is easy to get rid of the name of slave the evils of prostitution are difficult to uproot, and that instead of male and female slaves, we have simply substituted the prostitute and catamite. We pray therefore that all the local magistrates may be charged with the responsibility of making a secret and thorough investigation, and that, should any case arise of the purchase of a free person for prostitution, such magistrate shall be required to apply the extreme penalty of the law without any show of leniency.





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# CUMULATIVE INDEX TO SUPPLEMENT

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